

Mr. HOLMAN. I hope that will not be adopted.

The question being taken, the amendment was not agreed to.

Mr. HOLMAN. I hope the rest of the amendments will be considered as agreed to, unless some gentleman calls for a separate vote.

The SPEAKER. The Clerk will read the next amendment on which a separate vote is asked.

The Clerk read as follows:

Add to the bill the following paragraph:

That the sum of \$375,000, or so much thereof as may be necessary, be appropriated to pay the amount due to mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, and Virginia, in the years 1859, 1860, 1861, and before said States respectively engaged in war against the United States; and the provisions of section 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized: *Provided*, That any such claims which have been paid by the Confederate States government shall not be again paid.

Mr. HOLMAN. I call for a division.

The question being taken, there were—ayes 151, noes 30.

Mr. HOLMAN. As the negative vote is not enough to order the yeas and nays, I will not ask for them.

So the amendment was agreed to.

The remaining amendments, on which no separate vote was asked, were concurred in.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. LUTTRELL. I ask unanimous consent that the bill (H. R. No. 4261) be taken from the Speaker's table, and that the House non-concur in the Senate amendments and ask for a committee of conference. Objection was made.

The SPEAKER. It being now five minutes to twelve o'clock, the House, pursuant to order, takes a recess until twelve o'clock m.

#### PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BLISS: The petition of Mary King, widow of Joseph King, late of Company B, Seventh New York Volunteers, for a pension, to the Committee on Invalid Pensions.

By Mr. COX: The petition of Charles W. Hinson, and other citizens of Buffalo, New York, against acquiescing in the decision of the electoral commission by preventing a further count of the electoral votes, to the committee on the privileges, powers, and duties of the House in counting the electoral vote.

By Mr. HOPKINS: The petition of citizens of Pittsburgh, Pennsylvania, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. HUBBELL: The petition of Captain William Barnland, Captain Thomas Williams, and 75 other citizens of Marquette County, Michigan, for a survey for a harbor of refuge at Portage Lake on Lake Michigan, to the Committee on Commerce.

By Mr. HUMPHREYS: The petition of citizens of Greene County, Indiana, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. KELLEY: Resolution of the Academy of Natural Sciences of Philadelphia, expressing its sense of the importance of the proposed scientific exploration of the border States of Mexico and the United States, to the Committee on Foreign Affairs.

By Mr. PRATT: Two petitions, one from E. W. Jeffries and others, the other from Robert Patton and others, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. ROSS: The petition of citizens of Centre County, Pennsylvania, of similar import, to the same committee.

Also, Resolutions of the common council of Philadelphia, asking that the original chart of the Declaration of Independence be allowed to remain permanently in Independence Hall, to the Committee on Public Buildings and Grounds.

By Mr. STRAIT: The petition of Thomas Humphreys and others, for the equalization of pensions to disabled soldiers, to the Committee on Invalid Pensions.

Also, Concurrent resolutions of the Legislature of Minnesota, asking for a preliminary survey of the Saint Croix and Saint Louis Rivers to prove the feasibility of the connecting of these rivers by canal, to the Committee on Commerce.

By Mr. WOODBURN: The petition of Edward Todd and 49 others, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. WOODWORTH: The petition of citizens of Mahoning Valley, Ohio, for an appropriation for the improvement of the harbor at Ashtabula, Ohio, to the Committee on Commerce.

#### IN SENATE.

WEDNESDAY, February 28, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

#### ELECTORAL VOTE OF SOUTH CAROLINA.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate a communication from the president of the commission, which will be read.

The Chief Clerk read as follows:

WASHINGTON, D. C., February 27, A. D. 1877.

SIR: I am directed by the electoral commission to inform the Senate that it has considered and decided upon the matters submitted to it under the act of Congress concerning the same, touching the electoral votes from the State of South Carolina, and herewith, by direction of said commission, I transmit to you the said decision, in writing, signed by the members agreeing therein, to be read at the meeting of the two Houses, according to said act. All the certificates and papers sent to the commission by the President of the Senate are herewith returned.

NATHAN CLIFFORD,  
President of the Commission.

Hon. THOMAS W. FERRY,  
President of the Senate.

Mr. CRAGIN. I move that the House of Representatives be notified that the Senate is ready to meet them and proceed with the count.

Mr. EDMUNDS. Be notified of this fact: that it has been communicated to us and that the Senate is now ready to proceed.

The PRESIDENT *pro tempore*. The order will take the usual form; it has been already prepared. The Secretary will read the order.

The Chief Clerk read as follows:

Ordered, That the Secretary be directed to inform the House of Representatives that the president of the electoral commission has notified the Senate that the commission has arrived at a decision of the questions submitted to it in relation to the electoral votes of South Carolina, and that the Senate is now ready to meet the House for the purpose of laying before the two Houses the report of the said decision, and to proceed with the count of the electoral votes for President and Vice-President.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

The resolution was agreed to.

The PRESIDENT *pro tempore*. The Secretary will execute the resolution of the Senate.

At eleven o'clock and five minutes a. m., Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed to inform the Senate that the House will be in session and ready to receive the Senate at ten minutes past twelve o'clock for the purpose of proceeding with the count of the electoral votes.

The PRESIDENT *pro tempore*, (at twelve o'clock and nine minutes p. m.) The House having signified its readiness to receive the Senate at ten minutes past twelve, as it is now nearly that time, the Senate will repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives, and returned to its Chamber at twelve o'clock and thirty-five minutes p. m.; when the President *pro tempore* resumed the chair.

The PRESIDENT *pro tempore*. The Senate having returned from the joint meeting with the House of Representatives, upon objections to the decision of the electoral commission having been submitted, the Chair will now lay before the Senate, to be read by the Secretary, those objections.

The Secretary read as follows:

The undersigned, Senators and Representatives, do hereby object to counting the votes cast by C. C. Bowen, J. Winsmith, Thomas B. Johnston, Timothy Hurley, W. B. Nash, Wilson Cook, and W. F. Myers, alleged electors of the State of South Carolina, in conformity to the decision of the electoral commission, and as reasons therefor assigned the following:

#### I.

Because no legal election was held in the State of South Carolina on the 7th day of November last past for presidential electors in compliance with section 3, article 8 of the constitution thereof requiring a registration of the electors of the State as a qualification to vote.

#### II.

Because in consequence of frauds practiced in said election, and the interference with and intimidation of the electors in said State by the Federal Government prior to and during said election, stationing in various parts of said State near the polling-places detachments of the Army of the United States, a full and free exercise of the right of suffrage was prevented, in consequence of which there was no lawful election had.

#### III.

Because in violation of the Constitution of the United States the Federal authorities, at the several polling-places in said State on the day of election, stationed over one thousand deputy marshals of the United States, who by their unlawful and arbitrary action in obedience to the unauthorized instructions from the Department of Justice, so interfered with the full and free exercise of the right of suffrage by the voters of said State that a fair election could not be and was not held in said State on the 7th day of November, 1876.

#### IV.

Because the certification of the election held by said electors on the 6th day of December, 1876, was not made by the lawfully constituted governor of said State.

#### V.

Because the said electoral commission, contrary to its duty and the authority vested in it by law, neglected and refused to inquire into the facts and allegations aforesaid, and that said decision is contrary to the law and the truth.

#### VI.

Because at the time of the pretended appointment of the said electors in the State

of South Carolina, it was under duress from the power of the United States unlawfully exerted upon it, and said pretended appointments were made under such duress.

## VII.

Because the certificate numbered 1 was and is void.

First. For irregularity in that the electors were not sworn, as by the constitution of the State of South Carolina they were required to be.

Second. The certificate does not state that said electors voted by ballot, as required by the Constitution of the United States.

Third. The certificate upon the envelope in which the said certificate and accompanying papers were inclosed was not the certificate required by the laws of the United States.

T. M. NORWOOD,  
JAMES K. KELLY,  
HENRY COOPER,  
S. B. MAXEY,  
WM. A. WALLACE.

*Senators.*

J. F. PHILIPS,  
HESTER CLYMER,  
ERASTUS WELLS,  
A. T. WALLING,  
A. M. WADDELL,  
JOHN R. EDEN,  
THOS. L. JONES,  
J. R. TUCKER.

*Representatives.*

The undersigned, Senators and Members of the House of Representatives, object to the counting of the electoral vote purporting to come from South Carolina, in conformity with the decision of the majority of the electoral commission, for the reason that the said electoral votes, as well as the votes of the people of said State at the presidential election on the 7th day of November last, were given under duress caused by the unlawful exercise of Federal power.

A. S. MERRIMON,  
GEO. R. DENNIS,  
J. E. McDONALD,  
WM. A. WALLACE,  
C. W. JONES.

*Senators.*

DAVID DUDLEY FIELD,  
M. I. SOUTHARD,  
WM. MUTCHLER,  
JOHN GOODE, Jr.,  
JESSE J. YEATES,  
JOHN H. CALDWELL,  
S. S. COX,  
R. A. DE BOLT,  
JOHN B. CLARK, Jr.,

*Representatives.*

Mr. ROBERTSON. I offer the following resolution:

*Resolved*, That the decision of the commission upon the electoral vote of the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDENT *pro tempore*. The question is on the resolution.

Mr. BAYARD and Mr. EDMUNDS called for the yeas and nays, and they were ordered.

Mr. MERRIMON. I offer the following resolution:

*Resolved*, That it is competent to receive testimony to sustain the several exceptions above specified.

Mr. EDMUNDS. I make the point of order that that resolution is not in order. We must vote directly one way or the other, to affirm or reverse the decision of the commission.

Mr. MERRIMON. I submit that it is in order, before we take a vote upon the resolution offered by the Senator from South Carolina, to determine whether or not the Senate will receive testimony to sustain the exceptions. I insist that it is in order.

The PRESIDENT *pro tempore*. The Chair will submit the question of order to the Senate.

Mr. MERRIMON. Upon that question I ask for the yeas and nays. The yeas and nays were ordered.

Mr. SHERMAN. I should like to have read that clause of the law relating to objections made to the decision of the commission.

Mr. MERRIMON. My idea, Mr. President, is this—

Mr. SHERMAN. Let us have the law read in regard to objections to the decision.

Mr. EDMUNDS. It is the last part of section 2.

The PRESIDENT *pro tempore*. The Secretary will read it.

The Secretary read as follows:

Whereupon the two Houses shall again meet, and such decision shall be read and entered in the Journal of each House, and the counting of the votes shall proceed in conformity therewith, unless, upon objection made thereto in writing by at least five Senators and five members of the House of Representatives, the two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall govern.

Mr. MERRIMON. It seems to me very plain that, although the electoral commission would not receive testimony to show that the election in South Carolina was rendered void by the illegal use of the Army, nevertheless it is competent for the House of Representatives and the Senate to receive testimony to sustain exceptions to the ruling of the commission, as they would not receive testimony.

Mr. EDMUNDS. I suppose the time is running, and so debate may be in order upon the question as submitted. I wish to submit to my friend from North Carolina, who, I have no doubt, offers his resolution in entire good faith, that the statute says in explicit terms that the decision of the commission shall govern unless—

The two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall govern.

The decision is that a particular set of votes ought to be counted.

They must be counted unless the Houses order otherwise; that is, unless they order that they shall not, or that some other shall be counted. That is the plain language and intent of the law. If the Houses are of opinion that the commission has proceeded upon wrong principles, then they must reject the report of the commission; and it has proceeded upon wrong principles if it was wrong to decline to receive the testimony offered, and, therefore, it must be reversed. The adoption of this abstract principle, that it is lawful to receive testimony, does not appear to me to be open to discussion; it is not in order upon the reversing or affirming of the judgment of the commission.

Mr. MERRIMON. I still insist that my view of the matter is right. It is impossible under the act that the action of the electoral commission can be referred to it again or that that commission can take further action. If any action is to be had to reverse their decision or to ignore it or to reject it on the part of the Senate or the House of Representatives, that must be done by that branch of Congress so rejecting it. How is the question raised as to whether their decision is right or wrong? How is either branch of Congress to pass upon the propriety or impropriety of that decision? By means of exceptions. Then how are the exceptions to be treated? Is the Senate to vote blindly, is the House to vote blindly, am I to vote blindly? I want to know whether these exceptions are founded in fact, and if they are founded in fact then I am prepared to sustain the exceptions; otherwise I shall vote against them. It is important that the Senate shall be informed upon these questions of fact, and it is therefore absolutely essential that the testimony shall be received. I ask for the yeas and nays upon the resolution.

Mr. EDMUNDS. I second the demand for the yeas and nays on the question of order.

Mr. LOGAN. I ask for the decision of the Chair upon the point of order.

Mr. EDMUNDS. The Chair submits it to the Senate.

Mr. BAYARD. Mr. President, I submit upon the return of the decision of the electoral commission to either House of Congress the order to be taken is a concurrence or a non-concurrence with the decision, and upon that question two hours are given for debate, ten minutes being allotted to each speaker, who shall not speak more than once; and at the end of two hours the main question shall be put. I have urged in the debate before the commission that all evidence which was before the Senate or the House was necessarily open to the consideration of the commission and entitled to due weight in the mind of each Senator or each Representative, and that they could not, by being transferred to another chamber or by being placed upon the electoral commission, divest themselves of their duties and their powers as Senators or Representatives to open their minds to all the testimony which had been taken in the regular and usual manner by either branch of Congress. But the commission has, as the Senate knows, decided by a majority of one vote otherwise.

Therefore, in the present case I cannot vote to sustain the order asked for by the honorable Senator from North Carolina, because I believe that all that he wishes to bring before the Senate is already before it. In my judgment, it was all before the electoral commission, and accompanied the written objections and certificates which were placed before them. Everything in the shape of petition, deposition, or any paper known to parliamentary law connected with this case, and with all other cases of electoral vote, is now before the Senate, and cannot be justly excluded from the consideration of the Senate, or, in my judgment, from the consciences and minds of the members of the Senate or of the House, whether they sat upon the electoral commission or not.

The measure of duty in this regard is the same in the Senate, in the House, and in the electoral commission. A man did not lose his identity as a Senator or as a Representative nor diminish his official duties by taking his seat upon the electoral commission. But I do not hold that it is necessary that the proposed order should now be made in the Senate, because it is plainly impracticable to read all the testimony which is contained in the several volumes already in our possession in relation to the South Carolina election. The evidence known to parliamentary law in the shape of numerous depositions and reports (thanks to the action of the Senate, taken by committees raised by the order of the majority, and thanks to the action of the committees of the House raised by the action of that body) has been, and at this moment is, before the Senate if they choose to consider it and avail themselves of that means of knowledge.

Therefore, the honorable Senator from North Carolina has before him, as we all have, all the information relating to the election in South Carolina that was gathered by him either from his personal knowledge as a visitor in that State on one of the committees of the Senate or from any other source developed by parliamentary action of either House of Congress in regard to South Carolina.

I do not believe, however, sir, that this motion is in order according to the provisions of the law under which we are acting. I believe the only motion in order upon the separation of the Houses after the electoral commission has sent in their decision, is whether the decision of the commission shall stand, and the concurrent vote of the two Houses is necessary to overthrow it.

The PRESIDENT *pro tempore*. The question is, shall the resolution submitted by the Senator from North Carolina be admitted? on which the yeas and nays are ordered.

Mr. EDMUNDS. The question is whether it is in order.

Mr. MCCREERY. I wish to make remarks on the main question; and I rise to ascertain whether this discussion on the point of order is to be deducted from the two hours allowed for discussion on the main question?

Mr. EDMUNDS. Certainly it is. The resolution has been submitted.

The PRESIDENT *pro tempore*. Debate has not commenced on the main question.

Mr. SHERMAN. I insist that there shall be no debate until the main question is put; it makes no difference how this question is decided. I ask that the main question be stated and put.

The PRESIDENT *pro tempore*. The Chair will now submit the question.

Mr. MERRIMON. I want to make one other remark.

Mr. BOUTWELL. Mr. President—

The PRESIDENT *pro tempore*. Is there objection? It is by common consent that Senators are making explanations in regard to this order.

Mr. BOUTWELL. I only wish to say that for one I do not concur in the opinion stated by the Chair that the debate has not already commenced. When the resolution was read from the desk I think the two hours allowed for debate commenced; otherwise the law is of no value in the way of controlling the time that may be consumed. I think when the resolution was read from the Chair the two hours commenced.

Mr. MERRIMON. I beg to make one remark—

The PRESIDENT *pro tempore*. Is there objection?

Mr. SHERMAN. I prefer that the main question be stated, which it is the right of every member to demand at any stage.

Mr. EDMUNDS. It was stated, and the resolution was read.

Mr. SHERMAN. Still the Chair is of opinion that debate has not commenced.

The PRESIDENT *pro tempore*. The Chair reminds Senators that on a previous occasion there was some considerable time taken up in arranging the form of proceeding before the final debate commenced. The Chair has followed the same practice on the present occasion, holding that this is a matter of form; and the debate on the main question, as the Chair supposes, has not yet commenced.

Mr. SHERMAN. Then I call for the reading of the pending resolution offered by the Senator from South Carolina, which is the main question.

Mr. EDMUNDS. The pending question is the question of order.

Mr. MERRIMON. I wish to make an additional remark—

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

Mr. MERRIMON. I do not concur in the view just expressed by the Senator from Delaware. The objection to the resolution goes on the notion that Congress is now sitting in its legislative capacity, and that we take notice of the evidence that comes to Congress from the several committees. According to my judgment Congress is not now sitting in its legislative capacity. It is exercising a special jurisdiction that devolves upon it by necessary implication of the Constitution. We are sitting here to exercise ministerial and judicial powers, to count the electoral vote for President and Vice-President, and whatever we consider in this capacity, or whatever the electoral commission, acting under the act creating that commission, shall take into consideration comes to it by special provision and direction; and therefore it is, if we consider the testimony taken by the Committee on Privileges and Elections of the Senate in South Carolina, there must be some special order directing that the Senate shall so consider it. If we consider the testimony taken by the House committee touching the election in South Carolina, it must come before us by some special order for that purpose; and it is in that view that I think the resolution that I have offered is proper. If the exceptions to the ruling of the commission are to be sustained, I maintain that we must have the evidence before us; and we must not only have it before us in a general sense, but we must have it before us in an official sense; we must have it before us under the special jurisdiction that we are exercising to count the electoral vote for President and Vice-President. Therefore I say the resolution is proper.

The PRESIDENT *pro tempore*. The question is, is the resolution submitted by the Senator from North Carolina in order?

Mr. BOGY. Mr. President, it seems to me—

Mr. HAMLIN. I object to further debate.

Mr. LOGAN. So do I. I object to further debate on the point of order.

The PRESIDENT *pro tempore*. Senators object to further debate on the question of order.

Mr. SAULSBURY. Is not the point of order debatable?

The PRESIDENT *pro tempore*. It is not debatable on objection. This has been indulged by common consent.

Mr. BOGY. I do not rise to—

Mr. LOGAN. I object.

Mr. BOGY. I do not rise to a point of order, and I do not understand the President as putting it as a point of order.

The PRESIDENT *pro tempore*. Debate is not admissible except by common consent; two objections have been offered.

Mr. SAULSBURY. I desire to ask another question, whether the

rules that govern this body in the discharge of its ordinary duties are applicable to this session of the Senate, it being here for one special purpose under the act creating the commission? Are the general rules of the Senate applicable now?

The PRESIDENT *pro tempore*. Not where they conflict with the statute under which we are acting. The question is, is the resolution of the Senator from North Carolina in order? upon which the yeas and nays have been ordered.

Mr. BOGY. It is not the point of order that we are called upon to vote on this resolution. I do not wish to debate the question, although it seems to me we have a right to do so, because it seems to me we have not arrived at the two hours yet. It is like any other question before the Senate.

Mr. LOGAN. I object to any debate whatever on this resolution. I should have objected when the Senator from North Carolina rose the second time.

Mr. BOGY. Upon what ground can objection be made? It is like any other resolution before the Senate.

Mr. LOGAN. I object to it on the ground that this is a question of order now submitted to the Senate, and under the rules of the Senate it is not debatable. That is the ground on which I put it.

The PRESIDENT *pro tempore*. The Chair rules in this case that there are two hours allowed for debate. The Chair has decided that debate on the main question has not commenced, and therefore he cannot allow any debate to take place upon any other question unless by common consent. The Chair submitted that in the other case, and no objection was made. Since the Senator from Missouri has risen two objections have been offered; therefore there can be no debate.

Mr. BOGY. We have not got to the main question yet, and all these questions certainly are debatable.

Mr. BLAINE. Do I understand the President to say that unanimous consent can waive the obligations of statute?

The PRESIDENT *pro tempore*. The Chair understands that by common consent such has been the practice in the other cases, and the Chair is acting under the same practice.

Mr. BLAINE. It can a rule undoubtedly that the Senate itself makes; but this is a statute passed by both branches and signed by the President. Is there a dispensing power by unanimous consent of the Senate?

The PRESIDENT *pro tempore*. Such has been the practice, and the Chair is ruling in the same way.

Mr. BLAINE. I think that practice should be

More honored in the breach than the observance.

Mr. BOGY. I cannot see why—

The PRESIDENT *pro tempore*. Objection is made, and therefore debate on this resolution is not in order. The question is, is the resolution offered by the Senator from North Carolina in order? upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 18, nays 43; as follows:

YEAS—Messrs. Boggy, Cooper, Davis, Eaton, Goldthwaite, Hereford, Johnston, Jones of Florida, Kelly, Kernan, McCreery, Maxey, Merrimon, Norwood, Ransom, Saulsbury, Wallace, and Withers—18.

NAYS—Messrs. Allison, Anthony, Bailey, Blaine, Booth, Boutwell, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christianity, Clayton, Conover, Cragin, Dawes, Dorsey, Edmunds, Ferry, Frelinghuysen, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Jones of Nevada, Logan, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Robertson, Sargent, Sharon, Sherman, Spencer, Teller, Wadleigh, West, Windom, and Wright—43.

ABSENT—Messrs. Alcorn, Barnum, Bayard, Bruce, Cockrell, Conkling, Den nis, Gordon, Hamilton, McDonald, Randolph, Stevenson, Thurman, and Whyte—14.

The PRESIDENT *pro tempore*. The Senate decides the resolution to be out of order.

Mr. BOGY. I now move that the testimony taken in this case, which is in possession of the Senate, be read. I am not prepared to vote upon the decision of the commission until I hear the testimony so that I may see whether the decision is right or wrong before being called upon to give a vote. I wish to base my vote upon the testimony. I move that the testimony be read.

The PRESIDENT *pro tempore*. The Senator from Missouri moves that the testimony be read.

Mr. BOGY. On that motion I call for the yeas and nays.

Mr. CAMERON, of Wisconsin. Mr. President, certain testimony has been taken in this case by a subcommittee.

The PRESIDENT *pro tempore*. Debate is not in order unless by common consent.

Mr. INGALLS. I object.

The PRESIDENT *pro tempore*. Objection is made.

Mr. CAMERON, of Wisconsin. I simply desire to say that there is no testimony yet in the possession of the Senate, for the reason that the committee has not made its report to the Senate.

The PRESIDENT *pro tempore*. The Chair rules that there is no debate allowable in making up the form of the main question.

Mr. BOGY. I call for the yeas and nays on my motion.

Mr. LOGAN. I rise to ask a question. Is not this motion the same motion that we have just voted down?

The PRESIDENT *pro tempore*. It is not.

Mr. LOGAN. I do not see any difference. One was a resolution that the Senate receive testimony; and the other is a motion that the testimony be read. What is the difference? I cannot see any.

The PRESIDENT *pro tempore*. It is different in form.

Mr. BOGY. I ask for the yeas and nays on my motion.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. McCREERY, (when Mr. STEVENSON'S name was called.) I rise to state that my colleague is confined to his room by indisposition.

The roll-call having been concluded, the result was announced—yeas 21, nays 41; as follows:

YEAS—Messrs. Bailey, Barnum, Bogy, Cooper, Davis, Dennis, Goldthwaite, Hereford, Johnston, Jones of Florida, Kelly, McCreery, Maxey, Merrimon, Norwood, Randolph, Ransom, Saulsbury, Wallace, Whyte, and Withers—31.

NAYS—Messrs. Allison, Anthony, Bayard, Blaine, Booth, Bontwell, Burnside, Cameron of Wisconsin, Christiancy, Clayton, Conover, Cragin, Dawes, Dorsey, Edmunds, Ferry, Frelinghuysen, Gordon, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Logan, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Robertson, Sargent, Sharon, Sherman, Spencer, Teller, Wadleigh, West, Windom, and Wright—41.

ABSENT—Messrs. Alcorn, Bruce, Cameron of Pennsylvania, Chaffee, Cockrell, Conkling, Eaton, Hamilton, Jones of Nevada, Kernan, McDonald, Stevenson, and Thurman—13.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. The resolution will now be reported.

The Secretary read as follows:

*Resolved*, That the decision of the commission on the electoral vote of the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDENT *pro tempore*. This is the main question. Debate now commences. If there be no debate, the question is on agreeing to the resolution, upon which the yeas and nays have been ordered.

Mr. McCREERY. Mr. President, the average American politician, under ordinary circumstances, can scarcely resist the temptation of a favorable opportunity to make a ten minute speech, and the impetuosity of its delivery reaches its greatest elevation when it is perfectly manifest that his effort will be fruitless of any result.

The learned gentlemen who framed the electoral bill were impressed with the necessity of imposing restraint upon excess, and this innocent indulgence has been limited by operation of law to two hours' duration in the aggregate, to be divided out among the twelve Senators whose enterprise or good fortune shall enable them to obtain the floor. And in this brief allotment we are required to express all the disgust and all the indignation we feel in contemplating the deep injustice which has marked the proceedings of the electoral tribunal. Vituperation and invective, however scathing and incisive in their character, fail to rise to the height of the great wrong, and it is a question at last whether or not a solemn silence would not have been the most appropriate greeting to the partisan judgments of the court, or rather of the electoral tribunal.

But, speculate as we may, the argument is closed, the question is settled, and perhaps it may have been settled before the argument was opened. At the outset our pathway was lighted up by hope, and faith, and trust in the justice of our cause and in the incorruptible integrity of our judges; but the dark shadows of disaster and defeat now rest upon it. Seven was considered a most fortunate number among many of the nations of antiquity; but they had never witnessed the operations of a returning board of eight radicals, with the Senator from Indiana [Mr. MORTON] at its head. [Laughter.] If they had ever seen that, that favorite numeral would have lost its charm. [Laughter.]

The last presidential election was probably as free from fraud, violence, intimidation, or corruption as any other which has been held in twenty years. It is positively certain that a large majority of the American people voted for Samuel J. Tilden, of New York, for President, and for Thomas A. Hendricks, of Indiana, for Vice-President, and it is morally certain that if the electors chosen by the people had been protected in their rights or had been allowed to exercise their rights they would have been triumphantly elected. The people believed that, having carried the requisite number of votes, they were elected, and that no man would have the hardihood to oppose or to thwart the expression of the will of the sovereign people. But while they were engaged in exchanging congratulations upon the restoration of republican liberty and in returning thanks to God for their great deliverance, a dispatch was published from a Cabinet officer saying that Hayes had been elected. Shortly afterward, strange rumors were in circulation that President Grant had avowed his determination to see that Hayes was inaugurated; and in fearful corroboration of this statement, troops began to assemble around the capital, and military array and martial music greeted the eyes and the ears of the office-holders of Washington. How many of that brotherhood would see the country drenched in blood before they would jeopardize their places, it is impossible to determine.

A crisis had arrived in our affairs which called for the calm deliberation of our wisest, and clearest, and coolest heads to devise some measure, just and equitable in its provisions, to avert the threatening dangers that surrounded us. A special committee was appointed by the Senate, and after weeks of patient and constant labor the electoral bill was reported. I voted for that bill, and I do not intend here or elsewhere to attempt to evade or to escape from the responsibility of that vote. I shall be condemned by that large and respectable class of gentlemen who knew precisely what would take place before it happened; but in my humiliation I shall have the sympathy of all poor mortals, who, like myself, could not "see into the middle

of next week," if their lives depended upon it. Those who could clearly foresee the end must have had a desperate struggle with their feelings; or compassion, or kindness, or love of country, or some other consideration would have prompted them to interpose some surer and safer plan of averting the peril. The able, the upright, and the patriotic gentlemen who represented us on that committee hold high rank in the legal profession and enjoy the confidence of the country as politicians; but they were neither prophets nor the sons of prophets. It was their misfortune and not their fault that they had never been endowed with "that mystical lore" which enables men to forecast the events of the future.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. WHYTE. I claim the floor and ask the privilege of yielding my time to the Senator from Kentucky.

The PRESIDENT *pro tempore*. Is there objection to this?

Mr. HOWE. What?

The PRESIDENT *pro tempore*. Yielding the time of one Senator to another.

Mr. WHYTE. I give him my ten minutes.

The PRESIDENT *pro tempore*. The Chair hears no objection.

Mr. McCREERY. If I understand the purpose of the creation of the electoral bill, it was to investigate the issues where two or more returns were made from the same State. Those issues were substantially fraud or no fraud in Louisiana, fraud or no fraud in Florida, and fraud or no fraud in South Carolina. But the republican members of the tribunal were suddenly seized with such marvelous love of State rights that no fraud, however palpable, no outrage, however gross, could induce them to disturb the solemn sanctity of the great seal of a State. Had they forgotten that they themselves had gone behind, or before, or walked straight over the great seal on other occasions, whenever the exigencies of party demanded it? I am for State rights, but I would not take the votes cast for one candidate and transfer them fraudulently to another candidate, deceitfully pretending that in so doing I was protecting the rights of the States, nor would I sanction such a transaction on the part of a returning board or any other agency. General Grant has said and done little in the last eight years that meets my approbation; but in the sentiment that no man worthy of the position can afford to take it with a taint of fraud, I heartily concur. Fraud vitiates everything. A judgment rendered by the highest tribunal in this land would be set aside if it were clearly established by competent proof that it had been obtained by fraud.

But the issues involved in this controversy are as well understood by the people at large as by ourselves. To their calm and deliberate judgment we make our appeal.

Mr. McDONALD. Mr. President, the electoral commission has completed its labors, has performed its perfect work; and under its rulings, made by a strict party vote, the States of Florida, Louisiana, Oregon, and South Carolina are all to be counted for Hayes, and the votes of those States are to be taken as the "votes provided for by the Constitution of the United States." The result of these rulings will be to place a man at the head of the executive branch of the Government over the protest of more than 260,000 of a majority of the people of the United States. When the election closed on the 7th of November Samuel J. Tilden and Thomas A. Hendricks had received 267,000 majority of the votes actually cast by the people, and on the meeting of the electoral colleges in the several States on the 6th of December, 184 unquestioned electoral votes were cast for them, lacking but 1 of a majority of all the electors that could be appointed under the Constitution of the United States. There were four States in which controversies existed as to their electoral votes, making an aggregate of 20 votes. These controversies were in good faith submitted to this electoral commission with authority to find the true votes, "the votes provided for by the Constitution of the United States."

In Florida the canvassing officers having power only to canvass and compile the votes returned to them by the primary officers of election, disregarded the plain provisions of the law, and by a fraudulent and illegal rejection of a part of the returns gave certificates of election to the Hayes electors, who had not been appointed by the people, and refused certificates to those whom the people had chosen. The supreme court of the State had pronounced the acts of the officers illegal and by mandate had compelled them to make a recanvass, by which the true result was declared as respects these State officers. A court of competent jurisdiction had by mandate forbidden the count of the electoral vote made in pursuance of the fraudulent canvass. But by a strange perversity of judicial vision, this electoral commission by a party vote held that it could not look into these plain and palpable facts.

In Louisiana, of the votes actually cast, the democratic electors had received majorities over the republican candidates ranging from 5,300 to 8,990; the majority of the highest democratic elector over the lowest republican candidate was 8,990.

An illegal board of returning officers, in disregard of the law under which they pretended to act, and by the commission of the most stupendous frauds, reversed the popular will and certified to the election of the minority candidates.

Proof of these facts was tendered to the electoral commission and by them rejected, and for the first time in the history of any civilized people a tribunal clothed with power to investigate the facts upon

which rested the validity of an act to which their sanction was to be given refused to consider as an element affecting its validity a direct charge of fraud; and that a person fraudulently certified as elected is to be deemed the duly appointed elector, and the vote of such person is to be taken as the vote provided for in the Constitution.

Oregon had voted for one whom the Constitution of the United States says shall not be appointed an elector. The governor of the State had refused to give a certificate of election to this disqualified person, but under the law of the State, as he understood it, he certified to the candidate next highest on the list. The loss of this one vote would be fatal to the success of the party to which a majority of the commission belonged, and therefore they made haste to overrule the authorities of the State of Oregon in the construction they had given to the laws of their State, and counted the whole for Hayes.

South Carolina had been throttled during the canvass for the appointment of her electors by the military power of the Federal Government, and her electoral vote controlled at the point of the bayonet; but in the interest of State rights this vote also must be counted for Hayes and Wheeler, and thus we reach the end.

A minority President placed in power by fraud and force, nothing is now left for us but to take an appeal to the people. If it shall be found that in the form of the people fraud does not vitiate then indeed are the days of our Republic numbered.

Mr. MORTON. Mr. President, I do not rise to vindicate the decisions made by the electoral commission. So far as that commission has decided any question of law, I believe it will be fully vindicated by the legal mind of the United States, and I believe it has affirmed no proposition that six months ago was not accepted as the law by men of all parties; but we hear this continual talk about fraud, fraud, and an attempt is being made to strike out the electoral vote of South Carolina, and because that is not permitted the electoral commission and the republican party are charged with fraud! If that vote was stricken out, fraud would be committed. By the committee which was sent down there by the House of Representatives, it was reported, as I am informed, that the Hayes electors had a majority of some 800. The committee sent down by the Senate reported it at a larger figure; and with a fair election in South Carolina the republican majority would be from 25,000 to 30,000. And yet with a conceded republican majority by the report of a democratic committee, we are charged with fraud because the vote of South Carolina is not stricken out.

And now, in regard to Louisiana. I believe Louisiana is a republican State; that with a free and fair election there would be a republican majority of from fifteen to twenty thousand. The returning board there threw out votes from several parishes, and upon what ground? Upon the ground that the majorities had been obtained by violence, by murders, and crimes of every hue; that there had been no free and fair election; and if there had been, that the result would have been entirely different.

Sir, in a State like Louisiana, where the elections were carried by violence, there is no relief, and can be none, except through a tribunal that is authorized to hear the evidence of violence and decide upon it, and throw out majorities obtained by violence. Take a parish where there are known to be thousands of republicans, and yet by violence but a half a dozen republican votes are polled. We know that that result is fraud, and it is bloody fraud; it is worse fraud than merely stuffing a ballot-box; it is worse fraud than simply making a false count; it is a fraud stained with blood, the deepest and most damning kind of fraud.

Mr. President, take the State of Mississippi, giving a democratic majority of sixty thousand, or thereabouts. Does not every well informed man know that Mississippi is a republican State? Does not every well informed man know that that result was obtained by violence, by intimidation, by murder, whipping, torture, exile, and every species of violence and wrong; but because a majority of sixty thousand has thus been piled up we are told that the popular majority is largely in favor of Mr. Tilden. Sir, there never was a greater wrong perpetrated in the form of an election than that in Mississippi.

But, Mr. President, how stands this question of popular majorities? In what may be called the northern States, leaving out the fifteen States which we commonly call southern States, Mr. Hayes has a popular majority, if I remember correctly, of about 225,000; but when you go South, into Georgia, Mississippi, Arkansas, and other States, they pile up large majorities on the other side: a majority of 80,000 in Georgia. Mr. President, there is no democratic majority like that in Georgia. I do not believe there is 5,000 democratic majority in Georgia. But, as an evidence of the way in which a majority of 80,000 is obtained, I may refer to the fact that in eight counties, in that State, in which there are known to be thousands of republican voters, Hayes did not receive one vote, or a mere handful of three or four votes. That is the way these large majorities are obtained, by intimidation and by driving thousands and tens of thousands of people from the polls. No, Mr. President, upon a fair and free election in those southern States, and comparing their votes with the northern States, Hayes would have a large majority of the popular votes of the United States.

I did not rise to argue the objections that have been made, but to refer to this talk about fraud, fraud. This attempt to strike out the electoral votes of a State in which both committees have reported that the Hayes electors had a majority seems to me the very acme

of audacity. There is no pretense that Tilden carried South Carolina. Notwithstanding the Hamburg massacre, notwithstanding the Ellenton massacre, notwithstanding the dropping murders all over the State; in defiance of and over all this, Hayes had a clear majority on the face of the returns, and yet we are charged with fraud.

No, Mr. President, on a fair and free election in South Carolina, Hayes would have carried the State by a large majority and would have carried Mississippi by a large majority, Florida by a fair majority for so small a State, Louisiana by a large majority, and Alabama by a handsome majority. No, Mr. President, what is called fraud means simply this: that votes and majorities obtained by murder, violence, intimidation in every form, are stricken out. To strike out the fruits of murder and violence is called fraud.

Mr. SAULSBURY. Mr. President, when I came into the Chamber this morning, I did not intend to have anything to say upon this subject; but we are approaching the consummation of the greatest wrong which, in my judgment, has been perpetrated during the age. We are approaching the time when you, sir, will be called upon to declare, contrary to the facts of the case, that Rutherford B. Hayes has been duly elected the President of these United States. I cannot let this occasion pass without at least expressing my condemnation, unhesitatingly and unqualifiedly, of the action of the electoral commission, not only in reference to South Carolina, but in reference to every State which has been passed in review before that commission.

It is well known to the people of this country that soon after the election, on the 7th day of November, a conspiracy, deep and foul—ay, a conspiracy which sought to overthrow the will of the American people and subvert, for the time, the free elective system of the Government in which we live—was entered into by men high in official position and high in the estimation of the republican party. Sir, we are approaching the consummation of that conspiracy by and through the judgment of this electoral commission. I do not design, nor will I speak disrespectfully of the *personnel* of that commission. I know who they are; they are men high in official position; but with their judgment I have a right to deal. I will not smooth my words nor silence my tongue in uttering condemnation of their act in refusing to investigate the frauds that have been practiced, whereby the conspiracy referred to is to be consummated and the will of the American people overthrown.

How was it in South Carolina? The Senator from Indiana [Mr. MORRIS] speaks of the majority which was given in South Carolina. How was it accomplished? The Army of the United States was sent there for the purpose of coercing and controlling the vote of that State. I will take that back; I will not say for the purpose of doing that, but I will say with that effect, and millions of the treasure of the country were spent in supporting the Army in the Southern States with the view of aiding the republican party. Yet the people of the country in their majesty rose and rebuked by their votes at the ballot-box that attempt to influence by military invasion of the States their free right to vote for whom they pleased. Had it not been for the military interference there the State of South Carolina, in the judgment of the people of this country, would have given a very large and decided majority for the Tilden electors.

How was it in Louisiana? The Senator from Indiana talks about the murders, the bloodshed, the intimidation in Louisiana. As I have said before, after having made a visit to that State, in my opinion the democratic party in no State in this Union sought in its organized capacity more earnestly to have a peaceable, and fair, and quiet election than in Louisiana. The murders and the violence to which the Senator refers are not the effect of the action of the democratic party, but the natural and necessary consequence of that inefficient government by which the people have been oppressed through the agency of the republican party. If the laws are not enforced there it is attributable not to the action of the democratic party, but it is attributable to the republican party, which has kept that people from the exercise of their free right of government. That has been the cause of the trouble there.

Now, let me say to the Senator from Indiana that I believe today that most of this proof of violence, this proof of intimidation by the democratic party, is flagrant perjury. The book that was brought into the Senate, sent here by the President of the United States, containing the affidavits gathered up by the committee that was sent down by the President, is a book of perjuries, bought and paid for, let me say, out of the Treasury of the United States; for when the facts appear I believe it will be found that the men who came to make those affidavits were summoned by the marshal of the United States, and paid out of the public Treasury from the funds that were in its hands.

I say there is no people on the face of this earth who have been more outraged than the people of Louisiana. For eight years they have been denied free government. They have been told for the last four years to wait patiently, that the people would rectify their wrong at the next election; and now, when they come up, and by a majority of from eight to ten thousand express their condemnation of the republican party, a returning board, the offspring and instrument of fraud, acting no doubt upon advice from higher quarters, throws out the electoral vote of that State, and this commission refuses to investigate the wrong. I speak not of the *personnel* of that commission, but I speak of its judgments as among those that will go down to posterity branded, I had like to have said, with infamy.

Mr. President, we know the result. Mr. Hayes is to be inaugurated. I have never in my life uttered a word disparaging to the character of Governor Hayes. I will not become a slanderer of private character. I will say nothing of him now; but I say that when he enters the White House he will go there without title; he will take possession of an office that by virtue of the votes of the people belongs to Samuel J. Tilden; and during the four years that he will preside at the White House, he will feel that he is occupying the place that belongs to another. Samuel J. Tilden—a gentleman with whom I have no personal acquaintance—with the consciousness that he has been chosen by his countrymen, will feel far more content than any man who may occupy an office to which he has not been elevated by the wish of the people. Nay, sir, he will feel that he has had all the honor which the votes of his countrymen could confer. Though he may be denied the emoluments of the office, he can live honored and respected in that retirement to which the judgment of this commission assigned him, not the voice of the people of the country. For the democratic party, let me say, Mr. President, that it can still survive the wrong and live to vindicate its principles and its rights. It is true that it will be displaced for four years from power, but its members will have the consciousness that they have elected the President of the United States and have been robbed of him by force and by fraud. The American people will vindicate their wrongs, and four years to come will bid farewell to the power of the party that now holds it, and which will hold it four years more, not by virtue of right, but by virtue of the grossest and most outrageous frauds, into which the majority of the commission would not, dared not look.

Mr. LOGAN. Mr. President, whom the gods would destroy they first make mad, and it does seem to me that the madness on the part of the democracy is evidence of their approaching destruction as a party. It is a very uncommon thing to see the parent assault the child. Here is a commission organized under the forms of law, made up of high-minded and honorable gentlemen, and we may say that it is the child of the democratic party; at least the democracy in the Congress of the United States voted for and advocated the creation of this commission. It was announced in all the democratic papers throughout the country as the consummation of the greatest statesmanship of the age; a peaceful solution of a great difficulty growing up in the land, and now, because the commission have not decided these questions just in accordance with the theories and ideas of the democracy of this country, their decisions are denounced as decisions of a fraudulent kind; decisions based not upon law and fact, but decisions growing out of partisan spirit.

I have not indulged in the discussion in reference to the question of fraud, since the commission has had these questions before it, but I hear day after day in both branches of Congress a denunciation of a majority of this commission because they have decided in a certain way; and therefore they are arraigned for giving political decisions. Sir, they have decided these questions in accordance with the precedents of almost a century. They have decided these questions in accordance with the decisions heretofore of the highest tribunals of this land where political questions have been decided. If there has been partisanship shown in this tribunal, I ask the Senator from Indiana [Mr. McDONALD] and the Senator from the great State of Delaware [Mr. SAULSBURY] why it is the seven have not exhibited as much party spirit as the eight? Is it because their number is a little short that they exhibit no party spirit? Is that the logic? I believe these men have decided as they honestly believed the law required them to decide, as they honestly believed the precedents required them to decide, and the interest of the country in future, as these questions were presented to them in legal form.

But frauds have been committed they say. Doubtless there have been frauds committed. I do not believe there has been a general election in this country for fifty years in which there has not been fraud committed. But the frauds seem to be all on one side, according to the declarations of the democracy in this Chamber. Now, sir, there has never been in the annals of the history of this country so open, palpable, unblushing, and damnable a fraud attempted as was attempted in the State of Oregon by men who ought to blush at the mention of it. You talk about frauds in this Chamber and I find the name of a Senator appended to nearly every objection that is made. I would desire, if I could, to pass by mentioning this fact, but when you bring us up to the point where we must meet you, I then decline further to be prevented from calling forth the iniquities upon your part, although it is in the person of a Senator whose connection with it was very close indeed. You talk about frauds when telegrams were sent approved by a Senator of the United States for the purchase of an electoral vote to elect Samuel J. Tilden President of the United States. Who ever attempted such a thing before? When did the republican party, or any party in this country, ever attempt to purchase electoral votes to elect a President of the United States until the democratic party did it in this contest? And yet you talk about frauds. Why, sir, the attempt of the democracy in the State of Oregon would be almost enough to make an escaped convict from the penitentiary blush. Telegrams were sent from New York, telegrams were sent from Oregon to No. 15 Gramercy Park, stating that parties could be had for so much, that so much money must be put to the credit of so and so at such a time, and that this must be done in order to procure the vote, and it was done, and the proofs show it. A

telegram in cipher sent by a man by the name of Patrick, demanding \$8,000 to purchase a republican elector, was approved by a Senator of the United States, and yet you talk about fraud. It is about time that these denunciations on the part of the democrats should cease or else republicans will maintain their manhood.

I say this and I say it because provocation has been given so as to force it to be said, and I do not wish to cast any reflection upon Senators or upon any persons. I would rather not have said what I have said and what I am going to say now, if it had not been necessary on account of the provocation given here every day. Senators on this side of the Chamber, republicans in principle, have been censured in this Chamber, for less offenses than Senators have been excused for on the democratic side in this fraudulent transaction in Oregon. Who in this Chamber can deny that fact? We are ready on this side of the Chamber to excuse; we have been willing to do so; we have been willing to allow this commission to go on in an orderly way and perform their duty and to abide by that decision, whether it be for Mr. Tilden or for Mr. Hayes. We were willing to do it and agree that their conclusions were honest, that their conclusions were the legitimate deductions of their examinations from the facts and the law, no matter where that decision should fall; but because it does not fall in favor of Mr. Tilden, by the purchase of an elector in Oregon—if I may use such an expression, at least evidence almost warrants me to say that, it being the performance of a certain perfidious act in order that Tilden might be elected—and because this commission will not count a vote of that character to elect Mr. Tilden, it is all fraudulent, it is all wrong, it is all hypocritical, it is all a cheat, it is all a sham.

No, sir, you mistake yourselves when you think that the country is going to swallow all this stuff that is put forth about frauds, and about tricks, and everything of that kind. The sensible people of this country want this question decided; they want it decided honestly; they want it decided without fribustering; they want it decided in a cool, calm, and dispassionate manner; and they are willing to abide by it. The telegrams that are coming to Congressmen asking them to filibuster and prevent the count come from the lower class of politicians; a class of people who love nothing; but their hates are always foremost. They do not love their country; they are devoid of patriotism; they would rather see the star of this magnificent Republic sink into the deep, dark sea of blood and gloom, than be disappointed in that which they desire, the forthcoming inauguration of their candidate for President.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. EATON. Mr. President, I do not rise to discuss this question, but to express my deep gratitude to one member of the electoral tribunal for the very calm and dispassionate judgment which he has given us to-day. I allude to the commissioner from Indiana [Mr. MORTON.] It was a judicial opinion delivered with great calmness, based doubtless upon testimony, for he volunteered to say to the Senate of the United States that there had been frauds, bloodshed, and murders committed in Louisiana and in South Carolina. Yet if I understand the facts, the commissioner from Indiana, the honorable Senator, refused to hear any of that evidence before the tribunal.

He spoke of the number of votes. I want to say a word about the number of votes. Samuel J. Tilden has received in round numbers three hundred thousand majority of the popular vote of this country, and Samuel J. Tilden has received a million majority of the white vote of this country, the thinking, reflecting vote of the country. This million majority of voters, quietly, acting under the advice of leading gentlemen, submitted this case to a tribunal, which it was supposed would be governed by law, by equity. Has that tribunal been so governed? Will that be the expression of the people of this country?

Mr. President, the Senator from Illinois [Mr. LOGAN] has just said that nobody but the lower classes of the community say one word in objection to the decisions of this tribunal. The honorable Senator from Illinois is mistaken. I wish to read a telegram to show that distinguished Senator under what a mistake he labors. I hold in my hand a telegram containing a resolution written by one of the most eminent men in the United States, sent to me by twenty-one men representing 65,000 democrats in the State of Connecticut, be they of the lower or of the higher classes:

HARTFORD, CONNECTICUT, February 27, 1877.

Hon. WILLIAM W. EATON, United States Senate:

Please communicate the following to our delegation in Congress: At a meeting of the democratic State committee, held in Hartford on the 27th of February, 1877, the following preamble and resolution were unanimously adopted:

Mark the language following, which I say is written by one of the most eminent men in this broad land:

Whereas the electoral commission designed and instituted to ascertain who by the votes of the people cast on the 7th day of November last was duly and justly elected to the Presidency for the four years ensuing from the 4th of March next, has by a partisan majority vote of its members—

In doing what?

In excluding evidence and by utter disregard of law, justice, equity, truth, honor, and fidelity to official oath and consistency in its decisions, defeated the purpose for which it was formed, disappointed the just expectation of the country, condoned fraud, and set a premium upon crime against the dearest rights of every freeman: Resolved, That it is the duty of the Senators and Representatives in Congress from this State to exercise every constitutional power in them vested to prevent the consummation of a fraud which, by condonation, will become prosperous and habitual, to the early and certain destruction of our free institutions.

*Resolved*, That the chairman of this committee be, and he hereby is, instructed to forward immediately the foregoing to our Senators and Representatives in Congress.

I beg leave to say to the Senate, and I beg leave to say to my distinguished friend from Illinois, that no better men breathe than the men who sent these resolutions to the Representatives and Senators in Congress from my State.

I want to say another thing to the Senator, that, so far as we have the power, we will exert it to prevent this condonation of fraud and this making and paying a premium upon crime, which in the end must prove the destruction of the institutions of the country.

Mr. LOGAN. Will the Senator allow me to ask him a question right there?

Mr. EATON. Certainly.

Mr. LOGAN. When I made allusion to these telegrams that were coming to Members and Senators I spoke of telegrams encouraging them to filibuster. Now, I ask the Senator when he says he proposes to use all means, if he intends to include filibustering among the means?

Mr. EATON. I mean all constitutional means. That is my answer, and the honorable Senator from Illinois knows the full breadth of the constitutional means that I speak of.

Mr. LOGAN. I do not know whether I do or not. Will the Senator give the name of that great man in Connecticut who sent this telegram?

Mr. EATON. No, sir; I will not.

Mr. LOGAN. Ah, then I cannot judge of him.

Mr. EATON. I did not say that any great man had sent me the telegram. I said it was drawn by one of the most eminent men in the United States.

Mr. LOGAN. Will the Senator give the name of the gentleman who drew it?

Mr. EATON. I do not feel inclined to be questioned on that subject.

Mr. LOGAN. Then I should like to ask the Senator how I am to judge whether he belongs to the higher or lower classes?

Mr. EATON. If the Senator is a judge, as I believe him to be, of good writing and good language, let him read the paper as it will be printed, and then he will know that the telegram came from the hand of a master. [Manifestations of applause in the galleries.]

The PRESIDENT *pro tempore*. The Chair will remind the occupants of the galleries at this time that if there is any applause or any demonstration one way or the other he will order the galleries to be cleared.

Mr. SHERMAN. Mr. President, I trust we have now come to the close of a long-contested presidential election. It will be memorable as long as the history of the United States endures. It is an election that turns upon one vote in an aggregate vote of three hundred and sixty-nine. If such an election had occurred in any other nation in the world it would have been followed by turmoil, and violence, and perhaps civil war. I know of no historical parallel in the records of ancient or of modern times where millions of people have been so evenly divided in the choice of their chief ruler, or even in the civil policy of opposing parties in monarchical governments.

If we can close this memorable contest by an act of hearty acquiescence in the judgment of tribunals created by law, we will present the most magnificent spectacle that has ever been known in the governments of men; and I, for one, this day, shall say nothing to disturb my sincere hope that such will be the result of this presidential election. It must be remembered that the tribunal which has been selected is composed of men, every one of whom we know, who are Senators and members and judges; and no man has a right, without accusing himself, to accuse that tribunal. No man dreams that they have been influenced by corruption, fraud, or a desire to promote fraud. They are honorable men, no doubt all of them governed more or less by party zeal and party feeling; but who is not, and who is so free from party convictions as to give him a right to accuse them? What Pharisee can cast the first stone? I did not favor the organization of that tribunal, because I thought the Constitution provided for a plain and simple method of counting, and that the law and the courts already provided could determine afterward whether the count was made according to the Constitution.

Look at the case as it stands. There are four disputed States that have been acted upon by the commission, and by the Senate and the House acting separately. In the case of Florida, committees of the two Houses, after full examination, differed as to which set of electors had the majority vote. The election was so close in that State, that the democratic committee claimed that the democratic electors had a majority of only 40 votes, while our committee of the Senate decided that the republican electors on the face of the returns had about 100 majority. And further, our committee, headed by its chairman, the Senator from California, [Mr. SARGENT,] declared that upon the actual proof of the right of the thing, the majority was much larger—so close was the election in Florida. What right have we, not so familiar as the members of these committees, in whose word and judgment we so often confide, to charge either side, or the commission who decided the controversy to arraign either for promoting fraud.

In regard to Louisiana I have already expressed all that I desire to say. I do believe that if the election in Louisiana had been conducted fairly, as a free election, the vote for the republican candidates

would have been larger than has been certified to by the returning board. But that debate has passed away. I have had my say upon it. No man has a right to say that there was not such proof of fraud, violence, and collusion in Louisiana as to convince an honest man that a fair election was prevented by intimidation, and to justify under the law, the decision of the returning board. It was a dispute in which honest men, with the strongest conviction of right on either side, might differ without reproach.

Every Senator knows that in Oregon the people intended to elect, and did elect, three republican electors, and that vote ought to be recorded in favor of Governor Hayes. In the forum of honor and right there ought to be no question about it. I will not go beyond this mere fact to discuss the incidents of that contest, for no one impugns the conduct of any republican in that election.

In the case of South Carolina both parties admit that the Hayes electors had a majority; and why should not that settle it?

Here are the four cases upon which this contest hangs. I believe they have been decided rightly before God and man, according to the will of the people and the laws of these States; and that the election thus announced rests upon the voice of the majority. At any rate, the election was so close and doubtful in each of these different States that honest men may differ as to the result.

Party passions and party feelings sway Senators and Members and judges, and all men in every country. This fact ought, at least, prevent men who, like us, are moved by such passion and feeling, from accusing this tribunal from making a wrong or a corrupt decision. Who among you is purer or better than they or either of them?

As to the questions made of ineligible electors, I have thought that all these objections were frivolous, and I will not debate them. The judgment of the people and the will of the people ought to prevail, and when they have elected a man whom they supposed to be eligible and that man has cast his vote, that ought to be the end of argument. No question ought to be made in such cases. No such question was ever before made in our history; and there never was an election for President when there were not more than one or more or even ten or twelve ineligible electors. Never before except in one historical case was the matter questioned, and then it was dismissed without excluding a single vote.

As to the popular majority, I am amazed to hear those Senators who talk about the rights of States talk about the popular majority. There have been other elections in this country where the popular majority differed from the electoral majority. I will not be led into a discussion of the character of this popular majority, the nature of it, and how it was created in certain States. That is out of the question, but not out of mind. We are to be governed by the Constitution and the laws. Twenty-one States have voted for Governor Hayes; the rest have voted for Mr. Tilden, and the majority of the electoral vote is 1, the count standing 185 to 184. The question though close is now settled by law, by the decision of the tribunal that you yourselves have created, and that should be the end of it.

I appeal to Senators, therefore, actors as we are in a great historical scene, to allow us to go on and finish the business of this session, pass the appropriation bills; and let the judgment of the court stand, under the law, as the judgment of the two Houses. Let Governor Hayes be peacefully inaugurated. Make your party opposition, if you please, to his policy when it is developed; see that he does not win you to his support; fight him, if you please, in every manly and patriotic way; but let the judgment of the court and the judgment of the people, as proclaimed in the electoral college, stand. Let our acquiescence in the result of legal processes demonstrate the strength of republican institutions and stand forever as a monument of our obedience to law.

Forty millions of people over this broad country of ours look down with anxious care upon your deliberations. When your decision is announced they will spring at once with joy and hope to their ordinary occupations, and peace and order and prosperity will again crown our favored land. A dread suspense has hung over them, which you can lift in a moment. I saw a telegram a few moments since from Europe, asking the probable result of our action this day. It will affect the public credit and great operations now going on in the public service. The whole world will be pleased with the spectacle of the American people deciding this question now in quiet, in harmony, in dignity, and in peace. It will add greatly to the honors we have won. Let our party contests come up hereafter, but now since we agreed upon a tribunal to decide this contest, it has seemed to me, and I beg pardon of my democratic friends for so saying, a question of honor as well as a question of law. I for one say now that if the judgment of this tribunal had been in favor of Mr. Tilden, I would have resisted to the uttermost every effort made by any man, whether he be republican or democrat, who sought by any motion whatever to delay or defeat the prompt declaration of that result.

Mr. PATTERSON. Mr. President, it was not my intention to say anything on this resolution. I thought the decision of the electoral commission was a better speech than I could make; but I cannot sit still and hear Senators give utterance to such sentiments as were uttered by the Senator from Indiana, [Mr. McDONALD.] The objection made to South Carolina by the Senator from Indiana is that the United States troops were sent to South Carolina, and that they throttled the will and the wish of the people of that State. Now, I say before the Senate and the country that the facts and the figures

of the election go to prove that that is not true; and before a Senator, in his high place, presumes upon the ignorance of this country to make such an utterance he should hesitate. The republican party of South Carolina has nothing to conceal. The Republican party of South Carolina want the election in that State investigated; we want the action of every soldier and every officer who was sent to South Carolina investigated; we want the action of every republican officer of the election in South Carolina investigated; but we want the action of the democratic party in South Carolina also investigated.

Mr. President, I invite the attention of the Senate and of the country to the figures; figures will not lie. It is said that the soldiers were sent to South Carolina to throttle the people of that State and defeat their will. Is there any sane man in this Chamber, is there any sane man in the United States who supposes for one moment that the troops were sent to South Carolina to throttle the negroes? I reckon not. Our democratic friends do not say so; but, if I understand my friend from Indiana, he says that the troops in South Carolina prevented the white people from voting for Mr. Tilden; for he did not add the colored people.

Let us look at the figures. By the constitution of South Carolina we are required to take the census every five years. A census was taken in 1875, and that census shows that there had been an increase of population in the State of 223,000 in five years. Our democratic friends claim that the census was an error, that it was too high, but in order to give them the best case I possibly can, I propose to give them the benefit of that census. By the census of 1875 there are 74,199 white voters in South Carolina, and by the same census there are 110,744 colored voters over the age of twenty-one, making 184,943 voters in the whole State. Let us see how many white votes the democratic ticket got. This is an official statement. Our democratic friends got into trouble down there. They went before the supreme court and asked for a mandamus upon the returning board to make them recanvass the returns. They said if they would go and foot up the returns of the precinct managers there would be a majority for Tilden as well as a majority for the democratic State ticket. The supreme court appointed a referee. The referee went into that question. He examined the precinct returns, and he reported that the aggregate of the precinct returns would elect not only the Hayes electors, but Mr. Chamberlain and the whole republican State ticket, by 300 or 400 majority; and they immediately said to the court, that they did not care anything more about that mandamus. Now, I propose to stand right on the figures as approved of by the supreme court. In South Carolina we are required to keep separate lists of the white and colored voters. We find that at the election of 1876 the excess of white voters, white men who actually voted, over the white vote of the State according to the census, is 6,531. I wish the Senator from Indiana [Mr. McDONALD] were here, because he is an honest man, and he wants to do what is right, if he only knew how, and I should like to ask him how he can say that the United States troops throttled the white people of South Carolina when our democratic white friends down there can poll 6,531 more white votes than there have ever been in any State! That may do very well to tell the people of Indiana, but I do not believe that anybody in Indiana would believe it.

I should like to ask another question. I will ask every Senator and every man in this broad country if he does not know as a rule that every white man in the South, particularly if he has been a rebel, is a democrat. I do not use the term rebel in any offensive sense. This is a practical question and I ask it because I am down to figures and must hasten, as I have only a few minutes. Does not every man know that the white men are all democrats? Does not every man in this country know that it is just as natural for an ex-slave to be a republican as for an ex-rebel to be a democrat? Will any one dispute that proposition? That is very certain; there is no question about it. There are exceptions and the exceptions are necessary to prove the rule. I know some of the exceptions. I know some gentlemen who have been in the confederate army and who are first-rate republicans. I know some colored men, but they are mighty few, who were slaves and are democrats.

The election in South Carolina shows that the democrats managed to get 6,531 more white votes than there were white voters in the State. Now, look at the colored vote. By the census we have 110,744 colored votes. Mr. Chamberlain and the republican ticket got about 92,000 colored votes. There is no going back on these figures. The Senator from Indiana may declaim until he is blind and my friend from Delaware may declaim until he is blind but it will not change these figures. There are just 99,000 colored men who voted in South Carolina. Now, if you take it for granted that all the white vote according to the census in South Carolina was cast for Tilden—and I am sure I am a white man and that I was there on the day of the election, and I know that I did not vote for Tilden; but suppose I did and suppose that every white man in South Carolina voted for Tilden—and I give Tilden the benefit of all the colored men who voted in excess of the republican State ticket and the Hayes ticket—we find that putting these together, including an excess of 6,531 white votes over the census, makes about 3,000 less than the vote claimed by the democrats. Giving them 6,500 obtained by fraud, it makes about 3,000 less than the vote that is claimed for Hampton and Tilden. Now, I ask my Christian, and honest, and conscientious democratic friends,

because I love them all, particularly since they have got so badly beaten, where, in the name of God, the 3,000 other votes came from, in addition to the 6,531 white votes cast in excess of the 74,199 white votes in the State, as appears by the census of 1875.

These are the facts, these are the figures; and I ask any man upon this floor, as I will ask any man in South Carolina, to tell me where they got that vote for the democratic ticket, except by fraud. I will show where they got some of it. In the county of Edgefield, we find, by the census of 1875, there were 2,722 white votes and 4,400 colored votes. How many votes did Tilden get in that county, do you think? Recollect that the 2,722 white votes are supposed to be democratic, and there are 4,400 colored votes. I want to tell you how many votes Tilden got in that county. Tilden got 6,297 votes and Hayes got 3,107. How about the white vote?

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. BLAINE. I will take the floor and yield my time to the Senator from South Carolina.

Mr. PATTERSON. I am much obliged to the Senator from Maine. The election shows that twenty-two hundred and fifty-two more white men voted in Edgefield County than ever lived there or ever existed there; and that is the way Mr. Tilden got his 6,200 votes. Twenty-two hundred and fifty-two more white men voted in Edgefield County than ever lived there, and they do not live there to-day. Where did they come from? Our friends across the river in Georgia sent them over to see us and while they were there they thought they might as well make good use of their time, and they voted, and they voted right, they all voted for Tilden, just as you would expect them to do.

That is where part of this fraud came from, and yet the Senator from Delaware and the Senator from Indiana and other Senators on this floor charge upon the republican party of South Carolina the design of fraud. But I say to these gentlemen the less they say about fraud the better. Let them come before the people of this country and apologize for their murders. The republicans of South Carolina never asked for troops to come to South Carolina to protect the people in their right to vote. We asked troops to come there to protect human life. They were murdering our people; they murdered them at Hamburg; they murdered ninety-eight in Aiken and Barnwell; and we asked the President of the United States to send troops to South Carolina to protect our people in their lives. He did it, and because the democrats in South Carolina did not carry the State by 40,000 majority, because they did not dare to commit murder in the presence of the troops, they cry "fraud." They tried the Mississippi plan. They carried Mississippi in 1875, because the troops were not there, by 40,000 majority, by murder and violence. Every man in this country knows this to be true and the widows and orphans and the new-made graves in Mississippi will prove the fact. Because they could not accomplish that in South Carolina they cry fraud. We, the republicans of South Carolina, will apologize for fraud if we have done any when you, the democrats of South Carolina, will apologize for your murders. The republicans of South Carolina are ready to-day to answer to the Senate and to the American people for their conduct in this election and we challenge the democrats to go before the people of this country and answer for theirs.

I am sorry that time would not permit for this electoral commission to go into the conduct of the election in South Carolina. Cheerfully would I have voted for the resolution of the Senator from North Carolina if we had had time, but I say right here to-day, representing Governor Chamberlain and the republicans of South Carolina, that we are ready to submit the election in South Carolina to any fair tribunal and if they say Wade Hampton is elected we will say amen. We will submit this election, all the returns and all the facts, to any fair tribunal and we will be just as confident as that we live that Governor Chamberlain will be declared elected by 20,000 majority as well as the Hayes electors.

Talk about fraud! The Senator from Illinois has spoken of the Oregon frauds. Did not your democratic party come into South Carolina and attempt to bribe the poor negro? Did they not come there and attempt to bribe a man of this race that they had tried to beat down, upon whose neck they set their heel until the loyal men of this country made them take it off? They went into South Carolina and tried to bribe a black man. O, democracy and reform, what crimes are committed in thy name! In Oregon by a white man; in South Carolina by a negro! Democracy and reform will resort to every crime, fraud, murder, intimidation, violence, and bribery. Let it be said to the honor of that colored man that when he was offered your \$10,000 of dirty gold and your \$40,000 of bonds in addition, he said, "No, no, I am the representative of the republican party of South Carolina; my vote will say whether my race shall be put back into slavery, or whether they shall be for all time to come free; and you should be ashamed to try to buy the rights of my people by my vote." And yet democracy with all the sanctimonious airs of the hypocrite talks about perjury! Great God! O, but there could be a book written on this election, a story that would shame and shock the nation. I wish I had time; I have very much more to say about this election. I propose to take the time hereafter. I am not going to talk about the election in Louisiana, but I do know what I am talking about when I am talking about the election in South Carolina.

Gentlemen talk about the election in the city of Charleston. I was

there on the day of the election in the city of Charleston. No man who was not there knows more about it than I do. I went around the city of Charleston visiting, different polls, and I never saw a more quiet, peaceable, and orderly election than the one held there on the 7th of November last. How much time have I got, Mr. President?

The PRESIDENT *pro tempore*. Two minutes.

Mr. PATTERSON. By the election returns in South Carolina we find that in every county in South Carolina, with the exception of two, the white vote was largely increased over the census. Is there a State in this Union—has an election ever been held where the whole vote was polled? Yet in South Carolina they pretend to have voted every man in the county and 6,531 more, and in every county except two the white vote has been increased. In Charleston County, where the allegation is that there was so much fraud and violence, there are 17,687 colored voters, according to the census, and there are 7,398 white voters. The republicans cast 15,032 votes and the democrats 8,809 votes, so that every white man in that county must have voted with the democrats and some 1,100 or 1,200 colored men. Now when you have an array of figures that shows that the white democratic vote has been increased about 18 per cent. over the census and the republican vote reduced about 12 per cent., do you not think that this cry of fraud comes with pretty bad grace? I do not believe that any person who thinks right and means right will believe any story of that kind. The election in Charleston City was fair, and every democrat there knows it.

I will say that the commissioners of election of the county of Charleston did notify the richest man in that county, who had given it out that he would take his negro laborers to the election on the day of election and would march them up, that he should not do it, and I am here as their representative to say that I believe it was right and I advised it, for I say that no man in America, be he employer or what not, has any right to lead his employes up to the polls.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. WADLEIGH. Mr. President, the question before the Senate is one which concerns the State of South Carolina. Upon that I have little to say. I did suppose, however, when the political committees of both parties reported to the public that the republicans had a majority in South Carolina, that that would be an end of the contest in respect to that State, and I deem that that at least is sufficient *prima facie* evidence to justify any member of the Senate in voting for the resolution now before us.

In respect to the State of Florida the majority claimed by the democrats was, as has been before stated here to-day, only forty. The majority claimed by the republicans was much larger. I believed that in that State the decision of the lawful returning board should be binding; and upon that I based my vote.

In respect to the State of Louisiana I desire to say a word or two in answer to what has been said by other Senators on this floor. I was one of the committee that went down to that State and spent some five weeks in investigating political affairs there, hearing witnesses upon both sides and trying the case as a court would try it as near as we could. There are certain figures, there are certain indubitable facts which prove beyond all question that in that State there was the intimidation of which the republicans complained and which the returning board made the basis of their action, which is now complained of by the democrats in this and the other House.

In forty parishes or counties of that State all parties admitted there was comparatively a free election. No complaint was made of any violence in those parishes. It might be claimed that in those parishes public opinion was influenced and the republican vote decreased by the outrages committed elsewhere; but there was no claim but that in those forty parishes the election was free, fair, and peaceable. In those forty parishes the colored people had a registered majority of 15,965. It is a fact—a fact not denied in Louisiana, by either democrat or republican—that as a general rule heretofore the colored people voted the republican ticket. In those forty parishes the republican majority upon the day of election is admitted to have been 6,355 votes; that is, upon a registered majority of 15,965 they obtained on the day of the election an actual majority of 6,355. But there were fourteen other parishes in that State in which intimidation was charged to have been practiced by the democratic party or its agents. The registered colored vote in those fourteen parishes was 21,368; the registered white vote was 14,579. In those fourteen parishes the colored people had a registered majority of 7,059 votes. Upon the day of election in those fourteen parishes there were cast 16,367 democratic votes and 9,123 republican votes, giving the democrats a majority of 7,244, against a registered colored majority of 7,059.

We investigated a certain number of those fourteen parishes, all that we could, and I say here that the testimony showed a condition or affairs disgraceful to humanity, disgraceful to the American people. Murder was committed, all crimes were committed in those parishes to prevent the colored people from voting the republican ticket. That appeared as plainly as the sun at noon-day, and yet there were certain excuses given for this great change in the parishes in which these proceedings were going on, and those excuses the committee investigated. The main excuse for that remarkable change in the vote, which did not occur where no intimidation was practiced, was that the colored people were sick of republican rule; that they therefore joined the democratic clubs and voted the democratic ticket freely and fairly. It was claimed also that in this election a differ-

ent mode of electioneering was adopted by the democrats from what they had previously practiced; that is, they put themselves upon an equality with the colored people and endeavored to gain them by persuasion; and they account for this change in that way. But the same method of electioneering, that of persuasion, was adopted by them in the forty parishes, and no such change of majorities occurred there, and therefore there is nothing in that argument.

Now, Mr. President, I have this to say: It is true that many colored men joined the democratic clubs; it is true that many of them were compelled to vote the democratic ticket. The argument that was used with them, the mode of persuasion that was adopted, was for the most part not committed to writing, and therefore could not be proved; but it so happens that before our committee there came the printed resolutions of the democratic-conservative club of Laurel Hill, in the parish of West Feliciana, which show exactly the mode of argument adopted to induce the colored republican to join the democratic club. Upon the 12th day of February, in the year 1876, at a meeting of that club, at which there were present men from various wards in that parish, these resolutions were adopted:

Whereas the peace of the parish has been disturbed by the presence of armed men visiting plantations at night and firing pistols or guns at or in the direction of certain persons, thereby greatly disturbing the peace and quiet of families, both white and colored;

And whereas such incursions are not only violative of all law, but seriously injurious to the interests of the best members of society, and most annoying and vexatious to our respective citizens, and have been made and are a matter of scandal to our parish throughout the whole State and the United States;

And whereas our Senators in Congress have advised the citizens to take measures to put a stop to this state of affairs:

Resolved, That we, the Union Conservative club of Laurel Hill, issue the most earnest appeal to all citizens of this parish to abstain in future from all lawless and violent measures, and, among others, especially the armed visitation to plantations at night.

Resolved, That we call upon all citizens to respect the certificates of membership issued by this club, and sacredly to observe the rights of life and property of every member of this club, and to extend to each and every member a cordial approval and protection.

That conclusively shows the mode of electioneering that was adopted by the democrats in these bull-dozed parishes to get the colored people into the democratic clubs. Outrages were committed at night by armed democratic ruffians; the colored people were alarmed. They were poor; they feared that they were in the midst of their enemies; they found no protection. In one single parish there were hundreds of armed white men riding about at night with Winchester rifles, shooting, murdering, committing numerous crimes upon the poor colored people of that parish.

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. MERRIMON. Mr. President, it seems that an appeal to reason and truth here is fruitless. Perhaps the American people will hear it; and therefore this debate is not out of place or without profit. I do not hope to change by anything I may say a predetermined result. "Ephraim is joined to his idols; let him alone." He is deaf to the voice of reason, truth, justice, and patriotism. He seems to be following after strange and fraudulent gods, and I apprehend in the end he will reach the goal of his ambition.

I do not contend that the electoral vote of South Carolina ought to be counted for the candidates of the democratic party in this struggle. What I do contend, however, is this, that the vote ought to be rejected, because there was no election there in contemplation of the Constitution and laws of the United States and of the State of South Carolina. Now, let us see exactly what is the issue before the Senate, apart from declamation, misrepresentation, and pointless facts.

I do not contend that the electoral commission should have gone behind the State authorities and ascertained how many votes were cast in South Carolina; I do not contend that it was the business of that commission to inquire about whether any voters there were intimidated or any way inveigled into voting for one ticket or another, I do not believe that was the office of the commission or is the office of Congress in counting the electoral votes; but what I do contend for is this, that it was the duty, the essential duty of the commission to ascertain whether there was a State of South Carolina in harmonious relations with the Union, whether it had a lawful governor and a lawful Legislature, and whether it had lawful State officers to conduct an election and ascertain the result, and whether in fact according to the Constitution and laws an election was held there and the result duly ascertained.

This commission were charged by the statute by which they were created and under which they were acting, and the Congress is charged by the Constitution of the country, to make that solemn inquiry when a question is properly raised that presents any issue on that subject. Ordinarily, Congress sitting to count the electoral vote would take official notice of most of these things; but when an issue is raised in a proper way, then evidence must be received to establish every important allegation necessary to make count of an electoral vote. The commission have failed to do that. They have stolidly, and by a strict party vote, refused to receive evidence to show whether there was such a vote, whether there was such a Legislature, whether there were such State authorities, and whether an election was held in South Carolina according to the Constitution and laws. They have refused it in the face of an allegation properly and legitimately made alleging that such was not the fact.

It was solemnly alleged before the commission that there was a conspiracy in South Carolina, by a prostitution of the Army of the

United States, to prevent a fair election and compel the voters of that State to vote for the electoral candidates in the republican party. That was the allegation; and further that the Army of the United States was prostituted—that by improper, false, fraudulent, and corrupt means large detachments of the Army were taken into the State of South Carolina and used for the express and the mere purpose of preventing a free and fair election in that State—for the purpose of producing such a state of things as that, if the majority should turn out in favor of the democratic electoral ticket, then the vote should be rejected and not counted; or to induce, or by the presence of the Army compel, a sufficient number of the voters of the State to vote for the republican ticket, carry it, and then insist that it be counted. That was the plain allegation, the material allegation; and it was plainly competent, I insist, not only competent, but it was the solemn, high, and patriotic duty of that commission to receive any testimony tending to support that allegation; and they refused to do it, I repeat, by a strict party vote.

I insist that now it is competent for the Senate to hear that testimony, but the Senate has here by a solemn vote refused to hear testimony to support these allegations. What must all just men, the American people think, of such a manifestly false ruling?

I was on the subcommittee of the Committee on Privileges and Elections that went to South Carolina to examine into the question whether there had been intimidation in that State. I am familiar with many of the facts connected with the election, and I stand here to tell the Senate and to tell the American people that in my judgment there was a conspiracy to prostitute the Army of the Union for the purpose of controlling that election in the interest of the republican party, and that the Army was prostituted to such an extent as to vitiate and corrupt the election in South Carolina so as that what purports to be the electoral vote of that State ought to be rejected and counted for no one.

Why, sir, the testimony taken before the committee of which I was a member shows beyond any sort of reasonable question that the governor of that State, before the late political contest there had hardly opened, with the view to use the Army to control the election, made a false proclamation of insurrection in that State. He made a proclamation of insurrection then when all the judges in the State, except one or two, declared and stated in effect under their hands that his proclamation was false. The sheriff in the county where it was alleged there was insurrection particularly stated that what he had said was false and that he, without the aid of a posse or any one, could execute in his county anywhere any civil process that might come into his hands. The governor issued that proclamation, made his application to the President of the United States for troops to go there and suppress insurrection. He manifestly, by design, did not pursue the course prescribed by the Constitution and convene the Legislature, to the end that the Legislature might consider the facts and see whether the occasion had arisen for making a requisition on the President of the United States, for Federal aid to suppress insurrection, but, in the exercise of his own judgment, in pursuance of a false proclamation, he himself made the application to the President, and the President sent the troops there by thousands, and then troops were stationed in almost every county in the State prior to the election and on the day of the election. The natural effect of sending troops there was to intimidate the people. The law contemplates that the presence of troops under such circumstances is intimidation. The very result proved that it had the effect to intimidate them, and the facts go to show that the people of that State, and particularly the colored people, were influenced by the presence of the troops. One distinguished witness, a man whose veracity cannot be questioned, of large opportunity to observe and of large observation, swears that the negroes were given to understand by the republican leaders all through the State where he went that the Army was sent down there for the express purpose of compelling them to vote the republican ticket.

The PRESIDENT *pro tempore*. The Senators' time has expired.

Mr. CAMERON, of Wisconsin. Mr. President, by the favor of the Senate, I was a member of the subcommittee of the Committee on Privileges and Elections sent to South Carolina for the purpose of investigating affairs in that State. I did not intend to take any part in this discussion; but after hearing what the Senator from North Carolina, who was one of my colleagues upon that subcommittee, has said, I cannot refrain from saying a single word.

The Senator says that he stands up here to tell the Senate and to tell the country that a conspiracy was entered into for the purpose of preventing a free expression of the political opinion of the people of that State, and that in furtherance of that conspiracy the Army was brought into the State of South Carolina. I heard all the testimony that was given before that subcommittee. The Senator heard all the testimony that was given before that subcommittee. I do not question that he has honestly come to the conclusion which he has expressed here to-day; but I must say for myself, and I can say for my other colleague upon that committee, that we did not think we were justified in coming to any such conclusion.

A great deal of testimony was given before the committee in reference to the action of the Federal troops in the State prior to the election and on the day of the election. Testimony was given by democratic witnesses and by republican witnesses; and without a single exception—and in this statement I know that I am correct—every

witness, republican and democratic, who testified in regard to the action of the Army, the officers or the soldiers, testified that no officer, no soldier at any time or at any place attempted in any way to influence the action of a single voter. It was the uniform testimony of democratic witnesses as well as republican witnesses that the officers of the Army and the soldiers of the Army acted with the greatest prudence and the greatest circumspection, and not in a single instance attempted to influence the action of a single voter or attempted to prevent a single voter from going up to the polls and voting exactly as he pleased. I understand that the Senator from North Carolina agrees with me in this.

Mr. MERRIMON. I did not say that any officer or soldier had attempted to influence a single vote. I said that the presence of the Army there itself, of itself, had the effect, and I can produce the testimony to show it, that my colleague on the committee will not deny.

Mr. BLAINE. What was the influence that did it?

Mr. MERRIMON. A moral influence. As I said in my place a moment ago, it was in proof that the negroes were told that the Army had been brought there for the purpose of compelling them to vote the republican ticket, and they were largely influenced. A man swore to that fact whose testimony and veracity will not be questioned.

Mr. BLAINE. Did the negroes swear to that?

Mr. MERRIMON. No, but a man of very high character did so. If you want to know his name, I will give it.

Mr. BLAINE. It is a very extraordinary statement.

The PRESIDENT *pro tempore*. The Senator from Wisconsin has the floor.

Mr. CAMERON, of Wisconsin. My time is running on. The Senator concedes that the Army did not, by direct action, influence the vote of a single person in that State, but he says that the moral influence of the Army did have such an effect as to prevent democrats from voting.

Mr. BLAINE. Will the Senator from Wisconsin allow me to interrupt him? I want to get what the position of the Senator from North Carolina is. I understand him that the negroes in large numbers were eager and anxious to vote the democratic ticket, but were prevented for fear the Army was going to outrage them if they did.

Mr. MERRIMON. When the Army first went there they were told—and it is in evidence, and I will produce it before the Senate at the proper time—that the Army was brought there for the purpose of compelling them to vote the republican ticket; and this same person, General McGowan, swore that the presence of the Army cost the democratic party ten thousand votes.

Mr. BLAINE. I want it to go on record that the negroes in South Carolina were so eager to vote the democratic ticket, after the Hamburg massacre, that it took the entire Army of the United States to restrain them! [Laughter.]

Mr. CAMERON, of Wisconsin. Mr. President, the presence of the Army in some localities did have some influence on the result of the election in those localities. Scores and scores of republican witnesses testified before the committee that they attended at such a box; that they voted the republican ticket; and when asked if there were any troops there they answered yes. Then we asked them, "If there were no troops there could you have gone to the poll and voted?" Scores and scores of them said that they would not; that they would not have dared to come out of the swamps, where they had been skulking for fear of their lives for months, if there were not troops at those polls. I am free to admit that the result of the election in South Carolina might have been different if there were no troops in the State; but the difference would have been produced by the fear that the negroes of the State had. They would not have gone to the polls and voted if they did not know that there were troops there to protect them. But I deny, and I do not think the Senator will claim, that the vote of a single white man was influenced by the presence of the Army in South Carolina.

Mr. CHRISTIANCY. Mr. President, I was also of the committee with the Senator from Wisconsin and the Senator from North Carolina. We took testimony there over one month, and I concur fully in every word that my colleague, the Senator from Wisconsin, has stated in reference to the evidence before the committee. There was not one iota of testimony, not a shadow of testimony by any party, by any witness, that any single individual voter of any color whatever had been influenced in his vote by the Army of the United States; and many, many democrats, intelligent men there, representative men, declared that from the action of those troops they could not have ascertained their politics and did not know what their politics were. This was the uniform testimony of all parties.

How was the Army used there? Simply to repress violence and protect the lives of the colored people, who were fleeing to the swamps, as stated by my colleague; and I have no doubt the Army there did influence the vote in that State, and that but for the Army the election in that State would have been an egregious farce; it would have been no election. Witness after witness when he came upon the stand testified how he had been driven from his home, how his life had been threatened, how he had been threatened with the destruction of his property and everything of the kind unless he would join a democratic club. When asked by our colleague from North Carolina, "did you not vote?" he would answer "yes." "Did you vote the republican ticket?" "Yes." And our colleague from North Carolina seemed to

exult that he had proved a very important point. But ask him one more question, "had the Army not been there would you have dared to go to the polls?" and he said "no." So much for the use of the Army in the State of South Carolina.

Now, I do not wish to have it understood because I testify in this way as to the action of the Army of the United States that I am in favor of permanently governing these States by the Army. I believe it to be a policy that must be abandoned; and on some other occasion I shall take the opportunity of saying a few words upon that point.

Mr. President, if my time has not yet expired, I have a few words more to say. It has been said here that it was expected this commission would go behind the returns and inquire into the question of fraud. If we should go behind them at all for this purpose, we must go through; otherwise there would be no fairness in the inquiry; and if all the frauds pertaining to this or any other presidential election were to be determined, and the result of the presidential election were to depend upon determining those facts, a single presidential term would not be long enough to determine them. And now I tell those who say so much about our refusal to go behind these returns and inquire into the question of fraud, that no Senator here should have expected that we were to make that inquiry, when that bill was passed, because we well knew that we could scarcely have entered upon it at all before the 4th of March, when the commission will expire. No man had so absurd an expectation. No man could have had.

Now, one word more as to what has been said about the popular vote. A great deal of reliance has been placed upon the fact that Mr. Tilden has the majority of the popular vote. Mr. President, our system of Government is not one in which the aggregate popular vote of the United States can of itself determine a presidential election. There is nothing under our Constitution or form of government which will allow 80,000 majority in the State of Georgia given for Mr. Tilden to be used to overcome a majority in the State of Michigan the other way; and so on of other States. We all know that. We all know that the popular vote of the United States taken as a mass is not what, under our Constitution, is to determine the election of President. We all know another thing, that very many democratic Presidents of the United States whose title to office was never questioned were minority Presidents, elected by a minority of the popular vote. What then is meant by appealing to this fact, that a majority of the popular vote has been in favor of Mr. Tilden? If that were to govern, what would become of State rights? But I shall not occupy further time.

Mr. KERNAN. How much time is there?

The PRESIDENT *pro tempore*. There are but two minutes left before the vote is to be taken.

Mr. KERNAN. I will occupy the time to state that I give my vote against counting the votes sent here in certificate No. 1 from South Carolina because evidence was offered to be given before the commission which, if received, would have shown, as was alleged, that there was not a free election in the State of South Carolina. I do not know that the evidence would have come up to proving a state of facts which would have induced me to reject the vote, but I vote as I do because the offer was made to prove to the commission in substance that the Executive of the United States sent to that State troops which did overawe and interfere so as to prevent a free and fair election, and changed the result from what it would have been except for such interference. That was rejected, and the answer given was, "if he did that, impeach him." But I insist that if he procured electoral votes by an act which was impeachable, I for one would not consent to count them.

Now, I do not know that the evidence would have been sufficient to establish the alleged facts, but I mean to say that the commission decided that it could not hear evidence to show that troops were sent there for the purpose, and that through their instrumentality the purpose was effected, of giving the electoral votes which were offered to be counted; and inasmuch as the evidence was rejected we could not decide upon it, and a rule was settled which I believe to be wrong, and with such an offer of proof shut out I would not consent to count the votes. The rejection of the offer was equivalent to saying "If the Executive for any reason sent to a State that was weak or that could not resist, troops enough to coerce the people to give electoral votes one way rather than the other, there is no power in the commission or in this Government to hear evidence that that was so and to reject the vote thus coerced." This is the reason I cannot vote for this resolution approving the decision of the commission.

The PRESIDENT *pro tempore*. The debate has lasted two hours. The time allowed for debate has now expired. The question is on the resolution of the Senator from South Carolina, [Mr. ROBERTSON,] upon which the yeas and nays have been ordered. The resolution will be read.

The Chief Clerk read as follows:

*Resolved*, That the decision of the commission upon the electoral vote of the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

Mr. CONKLING. The Senator from Georgia [Mr. GORDON] being ill left the Chamber sometime ago asking me to pair with him on this vote. I did so. Were he here he would vote against the resolution and I should vote in favor of counting the electoral votes of

South Carolina—counting the votes of those electors referred to in the resolution.

Mr. MITCHELL. I am requested to state in this connection that the Senator from Louisiana [Mr. WEST] and the Senator from Maine [Mr. HAMLIN] and the Senator from Missouri [Mr. BOGY] are necessarily absent from the Chamber on a conference committee at this time.

Mr. DAVIS. The Senator from Ohio [Mr. THURMAN] is confined to his room by sickness.

Mr. BLAINE. I desire to announce that my colleague [Mr. HAMLIN] is absent from the Senate Chamber on an important committee of conference. If present he would vote "yea."

Mr. McMILLAN. My colleague [Mr. WINDOM] is also absent from the Chamber on an important committee, and if he does not return to vote before the vote is announced it will be understood that he is prevented for that reason. He would vote "yea" if he were present.

Mr. WITHERS. I desire to state that the Senator from Missouri [Mr. BOGY] is absent from the Chamber on an important committee of conference. If he were here he would vote "nay."

Mr. DAVIS. I am paired on this question with the Senator from Minnesota, [Mr. WINDOM.] I should vote in the negative if I were at liberty to do so.

The question being taken by yeas and nays, resulted—yeas 39, nays 22; as follows:

YEAS—Messrs. Alcorn, Allison, Anthony, Blaine, Booth, Bontwell, Bruce, Burnside, Cameron of Pennsylvania, Cameron of Wisconsin, Chaffee, Christiancy, Clayton, Conover, Cragin, Dorsey, Edmunds, Ferry, Frelinghuysen, Harvey, Hitchcock, Howe, Ingalls, Logan, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Robertson, Sargent, Sharon, Sherman, Spencer, Teller, Wadleigh, and Wright—39.

NAYS—Messrs. Bailey, Barnum, Bayard, Cooper, Dennis, Eaton, Hereford, Johnston, Jones of Florida, Kernan, McCreery, McDonald, Maxey, Merrimon, Norwood, Randolph, Ransom, Saulsbury, Stevenson, Wallace, Whyte, and Withers—22.

ABSENT—Messrs. Bogy, Cockrell, Conkling, Davis, Dawes, Goldthwaite, Gordon, Hamilton, Hamlin, Jones of Nevada, Kelly, Thurman, West, and Windom—14.

So the resolution was agreed to.

Mr. EDMUNDS. I move that the House of Representatives be informed of the action of the Senate, and that we are now ready to meet them and continue the count.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will notify the House accordingly.

At six o'clock and thirteen minutes p. m. Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House have—

*Resolved*, That the objections to the decision of the electoral commission upon the electoral votes of South Carolina be sustained by the House, and that said votes be not counted in conformity with the decision of said commission.

And that the House is now ready to receive the Senate in the Hall of the House.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives, and returned to its Chamber at seven o'clock and fifteen minutes p. m.; when the President *pro tempore* resumed the chair.

#### ELECTORAL VOTE OF VERMONT.

The PRESIDENT *pro tempore*. The Senate having withdrawn from the joint meeting on objections submitted to the certificate from the State of Vermont, the Secretary will now read the objections.

The Secretary read as follows:

#### OBJECTION NO. 1.

The undersigned, Senator and Members of the House of Representatives, object to the counting of the vote of the State of Vermont, for the reason that two returns or papers purporting to be returns of the electoral vote of said State were forwarded to the President of the Senate, and that only one of said returns has been laid before the two Houses, the President of the Senate having stated that but one return has been received by him from said State, and a duplicate copy of one of said returns is herewith submitted for the consideration of the Senate and House of Representatives.

A. S. MERRIMON, *Senate*.

WILLIAM M. SPRINGER,

A. H. HAMILTON,

*Members of the House of Representatives.*

BURLINGTON, VERMONT, February 28, 1877.

[Received at 2.26 p. m.]

To S. J. RANDALL,  
*Speaker of the House of Representatives:*

Certificate of Amos Aldrich as elector was deposited in this office December 13.

B. B. SMALLEY,

*Clerk United States District Court for Vermont.*

#### OBJECTION NO. 2.

The undersigned, Senator and Representatives, object to the return from the State of Vermont on the grounds following, namely:

1. That Henry N. Sollace, who is certified to have been elected on the 7th of November, 1876, was at that day, and for a long time before had been, a postmaster of the United States, and therefore held an office of trust and profit under the United States, and could not be constitutionally appointed an elector of said State under the Constitution of the United States.

2. That the law of Vermont did not authorize the election of said Sollace to fill the vacancy alleged to have been the result of the absence of said Sollace from the college of electors.

3. It does not appear that said Sollace had resigned his office of postmaster at the date of his appointment by the college of electors.

4. That Amos Aldrich, who received the highest vote at the election on the 7th day of November, 1876, next to that cast for said Sollace, should have been allowed to cast one of the electoral votes of the State of Vermont.

W. H. BARNUM, Connecticut.  
E. F. POPPLETON.  
J. A. McMAHON, Pennsylvania.  
JAC. TURNEY, Pennsylvania.  
JOHN L. VANCE, Ohio.  
G. G. DIBRELL, Tennessee.  
FRANK H. HURD.  
A. T. WALLING, Ohio.  
WILLIAM TERRY.

#### OBJECTION NO. 3.

The undersigned Senator and Representatives, object to the return No. 1 from the State of Vermont on the grounds following, namely:

1. That Henry N. Sollace, who is certified to have been elected on the 7th of November, 1876, was at that day and for a long time before had been a postmaster of the United States, and therefore held an office of trust and profit under the United States, and could not be constitutionally appointed an elector of said State under the Constitution of the United States.

2. That the law of Vermont did not authorize the election of said Sollace to fill the vacancy alleged to have been the result of the absence of said Sollace from the college of electors.

3. It does not appear that said Sollace had resigned his office of postmaster at the date of his appointment by the college of electors, which fact is proper to be inquired of by the commission established by law.

4. It is proper for the said commission to inquire and report whether Amos Aldrich, who received the highest vote at the election on the 7th day of November, 1876, next to that cast for said Sollace, and who is certified as an elector by certificate No. 2, is not the duly appointed elector for the State of Vermont.

W. H. BARNUM, Connecticut.  
E. F. POPPLETON,  
J. A. McMAHON,  
JAC. TURNEY, Pennsylvania.  
JOHN L. VANCE, Ohio.  
G. G. DIBRELL, Tennessee.  
FRANK H. HURD,  
A. T. WALLING, Ohio.  
WM. TERRY.

Mr. EDMUNDS. Mr. President, I venture to offer the following resolution:

*Resolved*, That the vote of Henry N. Sollace as an elector for the State of Vermont be counted together with the other four electoral votes of that State, the objections to the contrary notwithstanding.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. MERRIMON. Mr. President, I wish to say, touching the first exception read at the Clerk's desk, that I learned from sources which I regarded as reliable that in a regular and orderly way a return was forwarded to the President of the Senate of an electoral vote cast in the State of Vermont. The Chair stated that the return had not come to him. Believing what I learned, and regarding the matter as of sufficient importance to have it brought before the Senate and the House of Representatives in the proper way, I consented to sign the objection.

This case, then, is presented. There are, as is alleged, dual returns from the State of Vermont. One set of returns have reached the President of the Senate in a regular and orderly way. The other set of returns, which ought to have come to him in that same regular and orderly way, have not come. Now, the question is, and it is the question that I am willing to see decided in some proper way, how is this difficulty to be solved? If there was another body of persons in the State of Vermont different from that which sent the regular returns to the President of the Senate, which purported to be an electoral college and acted in that capacity, and if they forwarded a return to the President of the Senate, it surely seems to me that there must be some means to get at that return.

From the State of Florida there came dual returns. They came in a regular and orderly way, according to the Constitution and laws. About these returns there was no question, but I put this inquiry: suppose that one of those returns had not reached the President of the Senate, and we had been in as full possession of the facts as we are to-day, except that we had not received one of the returns, is there no means by which the House of Representatives and the Senate could come in possession of that return? Is it absolutely cut off? If so, then there is nothing in this point. If, however, there is any remedy, then it is worth while to inquire whether there was such return as that suggested, as I understood and understand now, in good faith.

Mr. COCKRELL. Mr. President, I think a little attention to the Constitution and the laws would have made this case exceedingly plain. The Constitution provides that the electors shall meet in their respective States, that they shall cast their votes, and that they shall make out lists of the persons voted for as President and Vice-President, and transmit them to the President of the Senate. The law of 1792, which has been on the statute-book for a few years, and ought to have been understood, provides that the electors shall meet and give their votes on the first Wednesday in December, and—

That the executive authority of each State shall cause three lists of the names of the electors of such States to be made and certified, to be delivered to the electors on or before the said first Wednesday in December, and the said electors shall annex one of the said lists to each of the lists of their votes.

They are required by this law of 1792 to deliver one of these lists to the judge of the district in which the electors shall assemble, and

they are required to send another to the President of the Senate by a special messenger appointed by them before the first Wednesday in January next ensuing, and they are required then to forward another by post-office to the President of the Senate at the seat of Government. If there is an electoral college in a State and that college acts, it makes three lists of its votes; it sends one by mail to the President of the Senate, one by a special messenger appointed by its own body; and the other is deposited with the judge of the district court in which the electors meet.

Section 4 of the same act provides—

That if a list of votes from any State shall not have been received at the seat of Government on the said first Wednesday in January, then the Secretary of State shall send a special messenger to the district judge in whose custody such list shall have been lodged, who shall forthwith transmit the same to the seat of Government.

It does seem to me, Mr. President, that these provisions are ample, and manifest and unmistakable in their meaning, and that there can be no controversy about it. Further, section 7 of the act of 1792 provides—

That the persons appointed by the electors to deliver the lists of votes to the President of the Senate shall be allowed, on the delivery of the said lists—

A certain amount of mileage; and section 8 provides—

That if any person appointed to deliver the votes of the electors to the President of the Senate shall, after accepting of his appointment, neglect to perform the services required of him by this act, he shall forfeit the sum of \$1,000.

If these electors were representing the State of Vermont, and have failed to perform their duties, the State of Vermont has ample means of protecting herself and the people, and the other electors could appoint a messenger, or if there should be but one elector, he could appoint himself to come here to deliver the vote just as well as to cast the vote of the electoral college. Therefore, whether there be one or ten electors makes no difference, and if action is taken refusing to receive an electoral vote offered at this time I think it will be perfectly right, not only in accordance with the Constitution and the law of 1792 but in strict accordance with the law which was passed at this session.

Mr. MERRIMON. Mr. President—

The PRESIDENT *pro tempore*. The Senator from North Carolina has spoken once.

Mr. MERRIMON. I did not understand that we were running on time.

The PRESIDENT *pro tempore*. The debate has commenced. It commenced at seven o'clock and twenty-two minutes.

Mr. MERRIMON. I only want to make one remark.

Mr. EDMUNDS. I hope the Senator will be permitted by unanimous consent to make his remarks.

Mr. SARGENT. Will not the Senator from Vermont yield it out of his time?

Mr. EDMUNDS. Certainly I will yield part of my time.

Mr. MERRIMON. I simply want to say that there is no question about the law which the Senator from Missouri read, but it does not meet this case.

Mr. LOGAN. No law meets this case, nor does anything else.

Mr. MERRIMON. It is very easy for Senators to laugh. It is sometimes more difficult than it is to laugh, to reason about a thing. Sometimes people laugh because they cannot reason about a thing.

The PRESIDENT *pro tempore*. The Senator will address the Chair.

Mr. MERRIMON. The remark I wish to make, Mr. President, is that the case before the Senate is one where it is alleged an electoral college, or a body purporting to be an electoral college, in the State of Vermont, assembled and cast what purported to be the electoral vote of that State. Triplicates were duly issued as the law requires, one sent by messenger, another by mail, and another to the judge of the court. The triplicate sent by mail to the President of the Senate never reached him. The messenger did not deliver the triplicate intrusted to him. Whether the judge has one we cannot now know, because so far as we see the secretary of state or the proper officer of the State government has not sent to the judge that triplicate. Now, that is this case; it is a possible case. Therefore, I do not controvert anything about the law, I understand that; but what I do not understand so well is how an actual case such as this, and we take it that this is an actual case, is to be solved. It may be that it is to be rejected.

Mr. EDMUNDS. Mr. President, I will occupy the time to which I am entitled by asking for the yeas and nays on the adoption of this resolution. I do not wish to dignify this performance by a single remark.

The yeas and nays were ordered.

Mr. BAYARD. Let the resolution be read.

The Secretary read the resolution, as follows:

*Resolved*, That the vote of Henry N. Sollace as an elector for the State of Vermont be counted, together with the other four electoral votes of that State, the objections to the contrary notwithstanding.

The Secretary proceeded to call the roll.

Mr. DENNIS, (when his name was called.) I am paired with the Senator from Pennsylvania [Mr. CAMERON] on questions connected with the count. I presume he would vote "yea" on this resolution, as I should vote "yea" myself. [Laughter.]

The roll-call having been concluded, the result was announced—yeas 47, nays 0; as follows:

YEAS—Messrs. Allison, Anthony, Bailey, Bayard, Booth, Boutwell, Bruce, Burnside, Cameron of Wisconsin, Chaffee, Christianity, Clayton, Cockrell, Conover, Cragin, Davis, Dawes, Dorsey, Edmunds, Ferry, Frelinghuysen, Hamlin, Harvey, Howe, Ingalls, Jones of Florida, Kernan, Logan, McCreery, McDonald, McMillan, Mitchell, Morrill, Morton, Oglesby, Paddock, Patterson, Ransom, Robertson, Sargent, Sherman, Spencer, Teller, Wadeigh, West, Windom, and Wright—47.

NAY—0.

ABSENT—Messrs. Alcorn, Barnum, Blaine, Bogy, Cameron of Pennsylvania, Conkling, Cooper, Dennis, Eaton, Goldthwaite, Gordon, Hamilton, Hereford, Hitchcock, Johnston, Jones of Nevada, Kelly, Maxey, Merrimon, Norwood, Randolph, Saulsbury, Sharon, Stevenson, Thurman, Wallace, Whyte, and Withers—28.

So the resolution was agreed to.

Mr. EDMUNDS. I move that the Secretary inform the House of Representatives of the action of the Senate, and that the Senate is ready to meet the House to proceed with the duties required under the act.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will execute the order of the Senate.

Mr. CLAYTON. I move that the Senate take a recess until to-morrow at ten o'clock.

Mr. ALLISON. May I ask the Senator to withdraw that till I put a question.

Mr. CLAYTON. Certainly.

Mr. ALLISON. Has the House taken a recess?

Mr. CLAYTON. The Speaker of the House was just here, and I heard him say it had.

The PRESIDENT *pro tempore*. The Chair has been informed that the House of Representatives has taken a recess. The Chair saw the Speaker in the Chamber.

Mr. SARGENT. The Speaker informed me that the House had taken a recess.

The PRESIDENT *pro tempore*. The Senator from Arkansas [Mr. CLAYTON] moves that the Senate take a recess until to-morrow at ten o'clock.

The motion was agreed to; and (at seven o'clock and forty minutes p. m.) the Senate took a recess until to-morrow, Thursday, March 1, 1877, at ten o'clock a. m.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 28, 1877.

The House re-assembled at twelve o'clock m.

Prayer by the Chaplain, Rev. I. L. TOWNSEND.

### ORDER OF BUSINESS.

The SPEAKER. The Chair is informed by the Clerk that the Journal of yesterday is not completed and therefore cannot be read.

Mr. FIELD. I am directed by the committee on the powers and privileges of the House of Representatives to report the bill which I send to the Clerk's desk.

Mr. BURCHARD, of Illinois. I object, and call for the reading of the Journal.

The SPEAKER. The Chair has already stated that the Journal is not ready and therefore cannot be read.

Mr. BURCHARD, of Illinois. Then I object to any other business.

Mr. VANCE, of Ohio. I ask unanimous consent to make a report from the Committee on Printing.

Mr. BURCHARD, of Illinois. I object to any business being done.

Mr. SCALES. I ask unanimous consent to take from the Speaker's table and pass at this time the Senate bill to remove the disabilities of General D. H. Hill, of North Carolina.

Mr. WELLS, of Mississippi. I object.

Mr. LAMAR. I ask unanimous consent to offer the following resolution:

*Resolved*, That the rules of the House be suspended so as to discharge the Committee on the state of the Union from the further consideration of Senate bill No. 14, and to immediately consider the same.

Mr. FORT and Mr. HOLMAN objected.

Mr. LUTTRELL. I ask unanimous consent to take up from the Speaker's table the bill (H. R. No. 4261) to provide for the sale of desert lands in certain States and Territories, which has been returned from the Senate with amendments, that the amendments of the Senate be non-concurred in, and a conference asked on the disagreeing votes of the two Houses thereon.

Mr. EDEN. I object.

The SPEAKER. The Chair would suggest to gentlemen that it is hardly worth while for them to make efforts to be recognized for the purpose of taking up public business, because there are gentlemen here who do not desire that any legislation shall be done.

### CHINESE IMMIGRATION.

Mr. PIPER. I ask unanimous consent to present the report of the joint select committee on the Chinese question, and also the report of the expenses of the House part of the committee.

There was no objection, and the reports were received.

Mr. PIPER. I ask unanimous consent that the reports be printed in the RECORD.

There was no objection, and it was so ordered.

The reports are as follows:

### REPORT OF THE JOINT SPECIAL COMMITTEE TO INVESTIGATE CHINESE IMMIGRATION.

The joint special committee of the Senate and House of Representatives appointed to investigate the character, extent, and effect of Chinese immigration report as follows:

On the 6th day of July, 1876, the Senate passed the following resolution: *Resolved*, That a committee of three Senators be appointed to investigate the character, extent, and effect of Chinese immigration to this country, with power to visit the Pacific coast for that purpose, and to send for persons and papers, and to report at the next session of Congress.

On the 17th day of July, 1876, the House of Representatives passed the following resolution:

"Whereas the Senate has passed a resolution authorizing the appointment of a committee of three Senators to visit the Pacific coast and report to Congress at its next session upon the character, extent, and effect of Chinese immigration to this country:

*Resolved*, That the Speaker is hereby authorized to appoint three members of this House to proceed to the Pacific coast, after the adjournment of Congress, to investigate conjointly with said Senate committee, or otherwise, the extent and effect of Chinese immigration to this country, with power to send for persons and papers, to administer oaths, to employ a stenographer, and to take evidence; said committee to report to Congress at its next session."

Subsequently, at the same session, by concurrent resolution, the said special committee of the two Houses were authorized to act as a joint special committee for the purposes aforesaid, and with the powers conferred by the resolutions appointing them.

In conducting the investigation required by the resolutions the joint committee visited the Pacific coast and examined one hundred and thirty witnesses. The testimony so taken covers over twelve hundred pages of printed matter and embraces the views of all classes of the community and every variety of interest. The committee found a great diversity of opinion, resulting from different standpoints of the witnesses who were examined.

In conducting this examination the committee divided their work so as to first hear persons opposed to the unlimited introduction of Chinese, and to this branch of the subject a limited time was given. They then heard the testimony of persons favorable to such introduction, and concluded by affording time for witnesses in rebuttal. Although the subject by this means was pretty fully covered and the inquiry perhaps exhausted, the conclusions to be drawn from the mass of testimony may be different to different minds. In the opinion of the committee it may be said that the resources of California and the Pacific coast have been more rapidly developed with the cheap and docile labor of Chinese than they would have been without this element. So far as material prosperity is concerned, it cannot be doubted that the Pacific coast has been a great gainer.

This is true, at any rate, of the capitalist classes. If the inquiry should stop there; if it should be satisfied by the certainty that money is made out of the present condition of things, and not look to the present or future moral or political welfare of our Pacific States, it must be conceded, at least, that many enterprising men find their profit in Chinese immigration, and the general resources of the Pacific are being rapidly developed by means of Chinese labor. Among others who testified were those who largely employ Chinese or are interested in their transportation, and who find a profit therein. These testified that the results of Chinese immigration had been invariably beneficial in enhancing the material prosperity of the coast, but some were not entirely clear that there were not social and moral evils springing from this immigration which in the future would counterbalance the advantages gained by the present rapid production of wealth.

Opposition to any move restricting the immigration of Chinese was also developed among religious teachers, who testified before the committee that the presence of Chinese among us imposes a duty and gives an opportunity of Christianizing them. On the other hand, the committee found that laboring-men and artisans, perhaps without exception, were opposed to the influx of Chinese, on the ground that hard experience had shown that they are thereby thrown out of employment and the means of decent livelihood are more difficult of acquisition. But the opposition to Chinese immigration was not confined to laboring-men and mechanics. In the testimony will be found that of lawyers, doctors, merchants, divines, judges, and others, in large numbers, speaking of their own observation and belief, that the apparent prosperity derived from the presence of Chinese is deceptive and unwholesome, ruinous to our laboring classes, promotive of caste, and dangerous to free institutions.

In the progress of their investigation the committee called before them the municipal authorities of San Francisco, including the executive, legislative, health, and police departments, to ascertain the numbers, habits, and modes of life of the Chinese in San Francisco. The number of adult Chinese residents in that city averages at present during a year about thirty-five thousand. The testimony shows that the Chinese live in filthy dwellings, upon poor food, crowded together in narrow quarters, disregarding health and fire ordinances, and that their vices are corrupting to the morals of the city, especially of the young.

Among the testimony will be found that of some twenty operatives, numbering nearly as many trades, in which details are given in relation to different industrial pursuits which are either monopolized by the Chinese or are fast becoming so. This evidence shows that the Chinese have reduced wages to what would be starvation prices for white men and women, and engrossed so much of the labor in the various callings that there is a lack of employment for whites; and young men are growing up in idleness, while young women, willing to work, are compelled to resort to doubtful means of support. The hardships resulting from these causes bear with especial weight upon women.

It is also shown that this distinctive competition in some branches of labor operates as a continual menace, and inspires fears that the establishment of these ruinously low rates will extend to all employments and degrade all white working-people to the abject condition of a servile class. From this cause, among others, has sprung up a bitterly hostile feeling toward the Chinese, which has exhibited itself sometimes in laws and ordinances of very doubtful propriety and in the abuse of individual Chinamen and sporadic cases of mob violence. The influence of the better class of society is thrown against all violence toward the Chinese, although those exercising that influence may be convinced that the presence of the Chinese in California is undesirable. As long as there is a reasonable hope that Congress will apply a remedy for what is considered a great and growing evil, violent measures against the Chinese can be restrained.

As the safety of republican institutions requires that the exercise of the franchise shall be only by those who have a love and appreciation for our institutions, and this rule excludes the great mass of the Chinese from the ballot as a necessary means to public safety, yet the application of the rule deprives them of the only adequate protection which can exist in a republic for the security of any distinctive large class of persons. An indigestible mass in the community, distinct in language, pagan in religion, inferior in mental and moral qualities, and all peculiarities, is an undesirable element in a republic, but becomes especially so if political power is placed in its hands.

The safety of the State demands that such power shall not be so placed. The safety of the class, however, seems to depend in a measure upon that power.

There are, therefore, springing from this subject antagonistic considerations, the only way to reconcile which would seem to be that the laws should discourage the large influx of any class of population to whom the ballot cannot be safely confided.

To any one reading the testimony which we lay before the two Houses it will become painfully evident that the Pacific coast must in time become either American or Mongolian. There is a vast host from which Chinese immigrants may swarm, and circumstances may send them in enormous numbers to this country. These two forces, Mongolian and American, are already in active opposition. They do not amalgamate, and all conditions are opposed to any assimilation. The American race is progressive and in favor of a responsible representative government. The Mongolian race seems to have no desire for progress and to have no conception of representative and free institutions. While conditions should be favorable to the growth and occupancy of our Pacific possessions by our own people, the Chinese have advantages which will put them far in advance in this race for possession. They can subsist where the American would starve. They can work for wages which will not furnish the bare necessities of life to an American. They make their way in California as they have in the islands of the sea, not by superior force or virtue, or even industry, although they are, as a rule, industrious, but by revolting characteristics and by dispensing with what have become necessities in modern civilization. To compete with them and expel them the American must come down to their level or below them; must work so cheaply that the Chinese cannot compete with him, for in the contest for subsistence he that can subsist upon the least will last the longest.

It must not be understood that these views are unchallenged by a considerable and respectable class in California. Many persons of intelligence consider that this very cheapness of labor of the Chinese and the extreme docility of his habits are a strong consideration in his favor. More money can be made by employing him than can be by the employment of white men and women with the payment of adequate wages. Admitting this, yet it would seem that an unlimited influx of Chinese might be a great future evil; that the population of the Pacific coast by a people of cognate language, religion, habits, and traditions would be better than its population by Asiatics; that its people should be like those of Iowa or Illinois rather than like those of Peking and Canton. When considerations relating to the future health of the body-politic were called to the attention of witnesses, scarcely any dissented from the idea that great numbers of a people of the average mental capacity of the Chinese, having no inclination to adopt this country as their permanent home, who come and return as pagans, having a total disregard for our Government, and laws and the servile disposition inherited from ages of benumbing despotism, were undesirable.

By the judges of the criminal courts of San Francisco it was shown that there is a great want of veracity among Chinese witnesses, who have little regard for the sanctity of an oath, and hence convictions are very difficult for offenses committed against each other or against the public at large. The testimony seemed to be concurrent that the Chinese are non-assimilative with the whites; that they have made no progress, during the quarter of a century in which they have been resident on the Pacific coast, in assimilation with our people; that they still retain their peculiar costume and follow their original national habits in food and mode of life; that they have no social intercourse with the white population; that they work for wages which will not support white men, and especially white families; that they have no families of their own in this country, or very few of them; and that by the small amount and poor quality of food which they consume, and their crowding together in close quarters, reducing individual expenses of rent, their having no families to support or educate, they are able to compete with white labor in all departments and exclude it from employment.

Testimony was further taken upon the question of any radical differences existing between the Asiatic and Caucasian races, and in the evidence will be found much valuable information upon this point peculiarly interesting to the ethnologist. The deduction from the testimony taken by the committee on this point would seem to be that there is not sufficient brain capacity in the Chinese race to furnish motive power for self-government. Upon the point of morals, there is no Aryan or European race which is not far superior to the Chinese as a class. Full and interesting details of Chinese morals and habits in their own country will be found in the testimony, fully warranting this assertion. That testimony comes from intelligent travelers, ship-captains, merchants, and others, and some of it is too revolting for miscellaneous reading. But it was proved satisfactorily that the Chinese merchants in San Francisco are honorable in their dealings with other merchants. The only testimony affecting the integrity of this comparatively small class was that they evade to a considerable extent the United States revenue laws.

There is no intermarriage between the Asiatics and the Caucasian race. The presence of the Chinese discourages and retards white immigration to the Pacific States. This clearly appeared in evidence, and probably arises from their monopoly of farm and mechanical work through the low price of their labor, making subsistence difficult to procure by the poorer class of emigrants.

There was some conflict of testimony upon the question as to what is public opinion on the Pacific coast as to the desirability of the influx of Chinese; but it is fairly inferable from the evidence that, without very considerable exceptions, public opinion there is that Chinese immigration is exceedingly pernicious; that the presence of that element, perpetually alien in feeling and ideas, is a great disadvantage to the community.

This opinion is shared by some of the religious teachers in California, and very interesting testimony of the deleterious effects of Chinese immigration upon the morals of the Pacific coast will be found given by some of these persons. It is very clearly in evidence that the number of the Chinese on the Pacific coast is rapidly increasing, not by births, for there are few of these, but by importations, so that the same uneducated class is supplied perpetually.

The Chinese do not come to make their home in this country; their only purpose is to acquire what would be a competence in China and return there to enjoy it. While there is a constant and increasing incoming tide there is a constant outflow also, less in volume, of persons who have worked out specified years of servitude and made money enough to live upon in China, and who sever their connection with this country.

It further appears from the evidence that the Chinese do not desire to become citizens of this country, and have no knowledge of or appreciation for our institutions. Very few of them learn to speak our language. They do not desire the ballot, and there is danger that if they had it their "head-men" would control the sale of it in quantities large enough to determine any election. That it would be destructive to the Pacific States to put the ballot in their hands was very generally believed by the witnesses. Their want of knowledge of our language and institutions would prevent an intelligent exercise of suffrage; while their number in California at the present time is so great that they could control any election if the ballot was put into their hands. The number of adult Chinese is, at the present time, as great as that of all the voters in the State, or nearly reaching that number, and they increase more rapidly than the other adult population of the State. To admit these vast numbers of aliens to citizenship and the ballot would practically destroy republican institutions upon the Pacific coast, for the Chinese have no comprehension of any form of government but despotism, and have not the words in their own language to describe intelligibly the principles of our representative system.

It was proved before the committee that Chinese women in California are bought and sold for prostitution, and are treated worse than dogs; that they are held in a most revolting condition of slavery. It was further shown that the Chinese have a quasi-government among themselves, independent of our laws, authorizing the

punishment of offenders against Chinese customs, even to the taking of life. It was further shown that violent hostilities exist between Chinamen from different parts of China, who, coming together in California by accident or otherwise, engage in deadly feuds and riots, to the disturbance of the public peace. Large numbers of them, notwithstanding the difficulty of conviction, owing to the looseness of the Chinese oath, occupy the State's prison and jails.

They are cruel and indifferent to their sick, sometimes turning them out to die, and the corpses of dead Chinamen and women are sometimes found in the streets by the policemen, where they have been left by their associates at night. The climatic conditions of San Francisco are unfavorable to the prevalence of pestilence, but it was in testimony that the conditions existing in the Chinese quarter of this city transferred to New York, Saint Louis, Cincinnati, New Orleans, or other large cities east of the Rocky Mountains, would make those cities uninhabitable. The Chinese quarter already extends over a considerable area in the heart of San Francisco, and is growing year by year. The progress is steady and constant, and the business portion of the city is already cut off by the Chinese quarter from a portion where are many of the most elegant residences.

Such Chinese quarters exist in all the cities and towns of the Pacific coast. The tide of Chinese immigration is gradually tending eastward, and before a quarter of a century the difficult question that now arises upon the Pacific coast will probably have to be met upon the banks of the Mississippi, and perhaps on the Ohio and Hudson. Many people of the Pacific coast believe that this influx of Chinese is a standing menace to republican institutions upon the Pacific and the existence there of Christian civilization.

From all the facts that they have gathered bearing upon the matter, considering fairly the testimony for and against the Chinese, the committee believe that this opinion is well founded. They believe that free institutions founded upon free schools and intelligence can only be maintained where based on intelligent and adequately paid labor. Adequate wages are needed to give self-respect to the laborer and the means of education to his children. Family life is a great safeguard to our political institutions. Chinese immigration involves sordid wages, no public schools, and the absence of the family. We speak of the Chinese as they have exhibited themselves on the Pacific coast for twenty-five years past, and as they are there at the present time. They show few of the characteristics of a desirable population and many to be deprecated by any patriot.

This problem is too important to be treated with indifference. Congress should solve it, having due regard to any rights already accrued under existing treaties and to humanity. But it must be solved, in the judgment of the committee, unless our Pacific possessions are to be ultimately given over to a race alien in all its tendencies, which will make of it practically provinces of China rather than States of the Union.

The committee recommend that measures be taken by the Executive looking toward a modification of the existing treaty with China, confining it to strictly commercial purposes; and that Congress legislate to restrain the great influx of Asiatics to this country. It is not believed that either of these measures would be looked upon with disfavor by the Chinese government. Whether this is so or not, a duty is owing to the Pacific States and Territories which are suffering under a terrible scourge, but are patiently waiting for relief from Congress.

In pursuance of a resolution of the House of Representatives, passed August 15, 1876, directing the Clerk of the House of Representatives to pay from the contingent fund the sum of \$3,500 to the chairman, on the part of the House, of the joint select committee to investigate Chinese immigration, I herewith submit an account of the disbursements made in virtue of the same.

Voucher No. 1, stenographic work.....	\$2,012 85
Voucher No. 2, traveling expenses.....	140 50
Voucher No. 3, board stenographers.....	224 00
Voucher No. 4, expenses Hon. E. R. MEADE.....	753 00
Voucher No. 5, clerk's services.....	180 00
Voucher No. 6, balance deposited in the United States Treasury.....	189 65

3,500 00

WM. A. PIPER,  
Chairman House Committee.

I have examined the foregoing statement of account, and find the same correct.  
CHARLES B. ROBERTS,  
Chairman Committee Accounts.

Mr. MEADE. I ask unanimous consent to print in the CONGRESSIONAL RECORD, as a part of the debate, some remarks in relation to the report made in regard to Chinese immigration.

There was no objection, and the leave was granted.

## ELECTION IN SOUTH CAROLINA.

Mr. LAPHAM. I ask unanimous consent to print in the CONGRESSIONAL RECORD, as a part of the debates, some remarks touching the South Carolina election report.

There was no objection, and the leave was granted.

## ORDER OF BUSINESS.

Mr. SPRINGER. I ask unanimous consent that the bill (H. R. No. 1223) which is a pension bill, be taken from the Speaker's table and the amendment of the Senate be concurred in.

The SPEAKER. The Chair desires to say that the Senate is at our doors.

Mr. SPRINGER. Then I withdraw the request.

## COUNTING THE ELECTORAL VOTES.

At twelve o'clock and thirteen minutes p. m., the Doorkeeper announced the Senate of the United States, who then, headed by their President *pro tempore* and accompanied by their Sergeant-at-Arms and Secretary, entered the Hall, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

Senators INGALLS and ALLISON, the tellers appointed on the part of the Senate, and Mr. COOK and Mr. STONE, the tellers appointed on the part of the House, took their seats at the Clerk's desk, at which the Secretary of the Senate and the Clerk of the House also occupied seats.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses having separated upon the submission to the commission of the objections to the certificate from the State of South Carolina, have reconvened to consider and determine the decision of that tribunal.

The decision, which is in writing, by a majority of the commission, and signed by the members agreeing therein, will now be read by the Secretary of the Senate and be entered in the Journal of each House. The Secretary of the Senate read as follows:

ELECTORAL COMMISSION,  
Washington, D. C., February 27, A. D. 1876.

To the President of the Senate of the United States presiding in the meeting of the two Houses of Congress under the act of Congress entitled "An act to provide for and regulate the counting of the votes for President and Vice-president, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877," approved January 29, A. D. 1877:

The electoral commission mentioned in said act, having received certain certificates and papers purporting to be certificates, and papers accompanying the same, of the electoral votes for the State of South Carolina, and the objections thereto submitted to it under said act, now report that it has duly considered the same pursuant to said act and has by a majority of votes decided and does hereby decide that the votes of C. C. Bowen, J. Winsmith, Thomas B. Johnston, Timothy Hurley, W. B. Nash, Wilson Cook, and W. F. Myers, named in the certificate of D. H. Chamberlain, governor of said State, which votes are certified by said persons, as appears by the certificate submitted to the commission as aforesaid, and marked number one (1) N. C. by said commission, and herewith returned, are the votes provided for by the Constitution of the United States, and that the same are lawfully to be counted as therein certified, namely:

Seven (7) votes for Rutherford B. Hayes, of the State of Ohio, for President; and Seven (7) votes for William A. Wheeler, of the State of New York, for Vice-President.

The commission has by a majority of votes also decided and does hereby decide and report that the seven persons first above named were duly appointed electors in and by the State of South Carolina.

The brief ground of this decision is that it appears, upon such evidence as by the Constitution and the law named in said act of Congress is competent and pertinent to the consideration of the subject, that the before-mentioned electors appear to have been lawfully appointed such electors of President and Vice-President of the United States for the term beginning March 4, A. D. 1877, of the State of South Carolina, and that they voted as such at the time and in the manner provided for by the Constitution of the United States and the law.

And the commission, as further ground for their decision, are of the opinion that the failure of the Legislature to provide a system for the registration of persons entitled to vote does not render nugatory all elections held under laws otherwise sufficient, though it may be the duty of the Legislature to enact such a law. If it were otherwise all government in that State is a usurpation, its officers without authority, and the social compact in that State is at an end.

That this commission must take notice that there is a government in South Carolina, republican in form, since its constitution provides for such a government, and it is and was on the day of appointing electors so recognized by the executive and by both branches of the legislative department of the Government of the United States.

That so far as this commission can take notice of the presence of the soldiers of the United States in the State of South Carolina during the election, it appears that they were placed there by the President of the United States to suppress insurrection, at the request of the proper authorities of the State.

And we are also of opinion that from the papers before us, it appears that the governor and secretary of state have certified under the seal of the State that the electors whose vote we have decided to be the lawful electoral vote of the State were duly appointed electors, which certificate, both by presumption by law and by the certificate of the rival claimants of the electoral office, was based upon the notion of the State canvassers. There exists no power in this commission, and there exists none in the two Houses of Congress in counting the electoral vote, to inquire into the circumstances under which the primary vote for electors was given. The power of the Congress of the United States in its legislative capacity to inquire into the matters alleged, and to act upon the information so obtained, is a very different one from its power in the matter of counting the electoral vote. The votes to be counted are those presented by the State, and when ascertained and presented by the proper authorities of the State they must be counted.

The commission has also decided and does hereby decide by a majority of votes and reports that as a consequence of the foregoing and upon the grounds before stated the paper purporting to be a certificate of the electoral vote of said State of South Carolina signed by Theodore G. Barker, S. McGowan, John W. Harrington, John Isaac Ingram, William Wallace, John B. Erwin, and Robert Aldrich, marked No. 2 N. C. by the commission and herewith returned, is not the certificate of the votes provided for by the Constitution of the United States, and that they ought not to be counted as such.

Done at Washington, District of Columbia, the day and year first above written.

SAMUEL F. MILLER.  
W. STRONG.  
JOSEPH F. BRADLEY.  
GEO. F. EDMUNDS.  
O. P. MORTON.  
FRED'K T. FRELINGHUYSEN.  
JAMES A. GARFIELD.  
GEORGE F. HOAR.

The PRESIDING OFFICER. Are there any objections to the decision of the commission?

Mr. PHILIPS, of Missouri. I send up an objection signed by Senators and Representatives, and along with it I present the evidence upon which the objection is founded.

The PRESIDING OFFICER. The member from Missouri [Mr. PHILIPS] having presented an objection, it will be read by the Clerk of the House.

The Clerk of the House read as follows:

The undersigned, Senators and Representatives, do hereby object to counting the votes cast by C. C. Bowen, J. Winsmith, Thomas B. Johnston, Timothy Hurley, W. B. Nash, Wilson Cook, and W. F. Myers, alleged electors of the State of South Carolina, in conformity to the decision of the electoral commission, and as reasons therefor assigned the following:

I.

Because no legal election was held in the State of South Carolina on the 7th day of November last past for presidential electors in compliance with section 3, article 8 of the constitution thereof requiring a registration of the electors of the State as a qualification to vote.

II.

Because in consequence of frauds practiced in said election, and the interference with and intimidation of the electors in said State by the Federal Government prior to and during said election, stationing in various parts of said State near the polling-places detachments of the Army of the United States, a full and free exercise of the right of suffrage was prevented, in consequence of which there was no lawful election had.

III.

Because in violation of the Constitution of the United States the Federal authorities, at the several polling-places in said State on the day of election, stationed over one thousand deputy marshals of the United States, who by their unlawful and arbitrary action in obedience to the unauthorized instructions from the Department of Justice, so interfered with the full and free exercise of the right of suffrage by the voters of said State that a fair election could not be and was not held in said State on the 7th day of November, 1876.

IV.

Because the certification of the election held by said electors on the 6th day of December, 1876, was not made by the lawfully constituted governor of said State.

V.

Because the said electoral commission, contrary to its duty and the authority vested in it by law, neglected and refused to inquire into the facts and allegations aforesaid, and their said decision is contrary to the law and the truth.

VI.

Because at the time of the pretended appointment of the said electors in the State of South Carolina, it was under duress from the power of the United States unlawfully exerted upon it, and said pretended appointments were made under such duress.

VII.

Because the certificate numbered 1 was and is void.

First. For irregularity in that the electors were not sworn, as by the constitution of the State of South Carolina they were required to be.

Second. The certificate does not state that said electors voted by ballot, as required by the Constitution of the United States.

Third. The certificate upon the envelope in which the said certificate and accompanying papers were inclosed was not the certificate required by the laws of the United States.

T. M. NORWOOD,  
JAMES K. KELLY,  
HENRY COOPER,  
S. B. MAXEY,  
WM. A. WALLACE,

Senators.

J. F. PHILIPS,  
HESTER CLYMER,  
ERASTUS WELLS,  
A. T. WALLING,  
A. M. WADDELL,  
JOHN R. EDEN,  
THOS. L. JONES,  
J. R. TUCKER,

Representatives.

The PRESIDING OFFICER. Are there further objections to the decision of the commission?

Mr. SOUTHARD. I send up in duplicate an objection, signed by Senators and Representatives.

The PRESIDING OFFICER. The member from Ohio [Mr. SOUTHARD] submits an objection, which will be read by the Secretary of the Senate.

The Secretary of the Senate read as follows:

The undersigned, Senators and members of the House of Representatives, object to the counting of the electoral vote purporting to come from South Carolina, in conformity with the decision of the majority of the electoral commission, for the reason that the said electoral votes, as well as the votes of the people of said State at the presidential election on the 7th day of November last, were given under duress caused by the unlawful exercise of Federal power.

A. S. MERRIMON,  
GEO. R. DENNIS,  
J. E. McDONALD,  
WM. A. WALLACE,  
C. W. JONES,

Senators.

DAVID DUDLEY FIELD,  
M. I. SOUTHARD,  
WM. MUTCHLER,  
JOHN GOODE, JR.,  
JESSE J. YEATES,  
JOHN H. CALDWELL,  
S. S. COX,  
R. A. DE BOLT,  
JOHN B. CLARK, JR.,

Representatives.

The PRESIDING OFFICER. Are there further objections to the decision? [After a pause.] If there be none, the Senate will now withdraw to its Chamber, that the two Houses separately may consider and determine the objections.

Accordingly (at twelve o'clock and thirty minutes p. m.) the Senate withdrew.

The Senate having withdrawn, the House was again called to order.

ORDER OF BUSINESS.

Mr. SPRINGER. I move that the House now take a recess until to-morrow morning at ten o'clock.

Mr. WOOD of New York. I hope not. Let us proceed with the count.

Mr. SPRINGER. If discussion is to be indulged in, I would like to say something on the subject myself.

The SPEAKER. Debate is not in order.

Mr. WILSON, of Iowa. I call for the yeas and nays on the motion. The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 170, not voting 28; as follows:

YEAS—Messrs. Abbott, Ashe, John H. Bagley, jr., Banning, Blackburn, Elias, Boone, Bradford, Buckner, Cabell, John H. Caldwell, William P. Caldwell, Cart, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Douglas, Faulkner, Field, Finley, Forney, Franklin, Fuller, Glover, Gunter, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Hartridge, Hartsell, Hatcher, Henkle, Hooker, Humphreys, Hunton, Hurd, Thomas L. Jones, Knott, Lane, Lynde,

Mackey, Maish, McMahon, Meade, Mills, Morrison, Mutchler, O'Brien, Payne, John F. Phillips, Poppleton, Rea, Rice, Riddle, William M. Robbins, Miles Ross, Scales, Schunmaker, Sheakley, Slemmons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, Walling, Walsh, Warner, Whitthorne, Wigginton, and Wike—92.

**YAYS**—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Conger, Crapo, Crouse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hoskins, House, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moynes, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Phelps, William A. Phillips, Pierce, Piper, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Reagan, John Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Saylor, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Swann, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Warren, Waterston, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, Jr., Fernando Wood, Woodburn, Woodworth, Yeates, and Young—170.

**NOT VOTING**—Messrs. Anderson, Atkins, Bass, Beebe, Bright, Durand, Ellis, Gibson, Robert Hamilton, Goldsmith W. Hewitt, Hopkins, King, Lewis, Luttrell, McFarland, Metcalfe, Milliken, Money, Purman, James B. Reilly, Roberts, Schleicher, Stephens, Waldron, Ward, Wheeler, and Jere N. Williams—28.

So the motion for a recess was not agreed to.

Before the vote was announced,

Mr. WHITTHORNE stated that his colleague, Mr. ATKINS, who was absent on a conference committee, would if present vote in favor of taking a recess.

Mr. O'BRIEN and Mr. SHEAKLEY, (simultaneously.) I move that the House take a recess until half past seven o'clock this evening.

Mr. HOSKINS. I rise to a point of order.

Mr. WOOD, of New York. I make a point of order on the proposition of the gentleman from Maryland, [Mr. O'BRIEN.]

The SPEAKER. The Chair rules that the motion is not in order.

Mr. SHEAKLEY. I wish to take an appeal from the decision of the Chair.

Mr. HOSKINS. I move to lay the appeal on the table.

Mr. SHEAKLEY. On that motion I call for the yeas and nays.

Mr. WOOD, of New York. I ask the Speaker whether he entertains the appeal?

The SPEAKER. The Chair entertains the appeal, of course.

Mr. WOOD, of New York. I submit that it should not be entertained because it is a dilatory motion, made evidently for the purpose of delay.

The SPEAKER. The Chair is aware that he might in his discretion decline to entertain this appeal; but the House may as well say promptly whether the Speaker is right or wrong.

Several MEMBERS. That is right.

Mr. SPRINGER. Is not the question whether the appeal shall be sustained debatable? [Cries of "No! No!" "Vote! Vote!"]

Mr. WOOD, of New York. I move to lay the appeal on the table.

Mr. SPRINGER. The gentleman who took the appeal is still on the floor.

Mr. WOOD, of New York. I call for the yeas and nays on laying the appeal on the table.

Mr. SPRINGER. If the gentleman from Pennsylvania [Mr. SHEAKLEY] will yield to me—

The SPEAKER. For what purpose.

Mr. SPRINGER. I desire to give my reasons for voting to sustain the appeal taken by the gentleman from Pennsylvania, [Mr. SHEAKLEY.]

The SPEAKER. It is not debatable.

Mr. EDEN. Is this debate in order pending the motion to lay on the table?

The SPEAKER. Debate is not in order on an appeal where the original proposition upon which the decision appealed from is based was not debatable.

Mr. O'BRIEN. I would like to raise a point of order.

The SPEAKER. The gentleman will state his point.

Mr. O'BRIEN. I shall have to ask the indulgence of the Chair for a moment.

The SPEAKER. The Chair will indulge the gentleman any reasonable time.

Mr. O'BRIEN. The point is this: that the motion I made for a recess till half past seven o'clock this evening should have been entertained by the Chair; but as I understand the Chair has overruled it.

The SPEAKER. The Chair the other day decided that point and sees no reason now to change it.

Mr. O'BRIEN. At the same time I should be indulged by the Chair in stating briefly my reason.

The SPEAKER. The Chair is willing to indulge the gentleman to any reasonable extent.

Mr. BROWN, of Kentucky. I object to anything out of order.

Mr. O'BRIEN. It is not in the nature of debate, and I shall use no argument to convince members the motion is in order, but shall merely refer to the facts.

The SPEAKER. The Chair will ask that the gentleman from Maryland may be allowed reasonable time to state his point of order.

Mr. WOOD, of New York. He must speak to the question.

Mr. O'BRIEN. The point of order I raise is this—

Mr. BROWN, of Kentucky. Mr. Speaker, I have objected and now again object to anything out of order.

Mr. O'BRIEN. In the electoral bill, beyond all question, we have the power to take a recess until ten o'clock to-morrow morning. There is no doubt or dispute about that. Now, the greater always includes the less, and if we have the right to take a recess until ten o'clock to-morrow we must have the right to take a recess until seven o'clock.

Mr. WOOD, of New York. I call the gentleman to order.

Mr. O'BRIEN. It may be that the House has no desire to take a recess for a longer time than ten o'clock to-morrow, and it may also be, as it is in this case, that a large majority of the House interested in the discussion of the question in relation to the objection to counting the vote of South Carolina—

Mr. BROWN, of Kentucky. Is this discussion in order?

Mr. O'BRIEN. Those so interested desire time for reflection and consideration.

The SPEAKER. The gentleman from Kentucky objects, and the gentleman from Maryland is not in order.

Mr. BROWN, of Kentucky. For the fourth time I object to anything out of order.

The SPEAKER. The Chair hopes the gentleman from Kentucky will not suppose the Chair did not hear him, but because of the appeal taken from the decision of the Chair it has been his desire to hear upon what possible grounds it could be based.

Mr. BROWN, of Kentucky. The Chair twice announced his decision, and further stated that he would not change it, and afterward that debate was not in order, and I have repeatedly objected to any debate and to anything not in order.

The SPEAKER. The gentleman from Kentucky objects, and the gentleman from Maryland will resume his seat.

Mr. O'BRIEN. I rise to a point of order, and to object to hearing the ground of the point of order is indelicate and improper, because the Speaker desires to be heard through the members of the House.

The SPEAKER. The Chair does not desire to be heard except in his rulings.

Mr. SPRINGER. I hope refusal will not be persisted in to giving gentlemen the opportunity to state briefly the reasons of the appeal from the decision of the Chair.

The SPEAKER. The question is on the motion of the gentleman from New York to lay the appeal upon the table.

Mr. SPRINGER. I appeal to the gentleman from Kentucky to allow debate for ten minutes—

Mr. EDEN. I object.

Mr. KEHR. I object.

Mr. SPRINGER, (continuing.) On a question which is to determine whether this House has power enough left—

Mr. WOOD, of New York. Everybody objects.

Mr. SPRINGER, (continuing.) Whether we have power enough left to prevent the consummation of this great wrong—

The SPEAKER. The gentleman from Illinois is violating the rules of the House in insisting on debate when objection is made.

Mr. SPRINGER. I ask gentlemen to hear me on a subject of so great importance.

The SPEAKER. Objection is made to the gentleman.

Mr. O'BRIEN. Then let us have the yeas and nays on the motion to lay the appeal upon the table.

The yeas and nays were ordered.

The Clerk proceeded to call the roll.

Mr. PHILLIPS, of Missouri. There is so much confusion in the Hall we cannot hear the names of the members as they are called.

The SPEAKER. Until the House comes to order the public business will be suspended.

Mr. WALLING. I ask whether the roll-call has been commenced?

The SPEAKER. It has.

Mr. WALLING. Is it competent to offer an amendment to the motion of the gentleman from Illinois at this time?

The SPEAKER. Nothing is in order but the roll-call.

The question was taken; and it was decided in the affirmative— yeas 184, nays 61, not voting 45; as follows:

**YEAS**—Messrs. Abbott, Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Banning, Belford, Bell, Blair, Bland, Bliss, Blount, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Clymer, Conger, Cook, Crapo, Crouse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Faulkner, Felton, Flye, Forney, Fort, Foster, Freeman, Frye, Gause, Goode, Goodin, Hale, Haralson, Hardenbergh, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hunton, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moynes, Lord, Lynch, Mackey, Magoon, MacDougall, McCrary, McDill, Miller, Monroe, Morgan, Mutchler, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Payne, Phelps, Pierce, Piper, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Swann, Strait, Teese, Thomas, Thornburgh, Throckmorton, Martin I.

Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Watterson, Erastus Wells, G. Wiley Wells, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, Yeates, and Young—184.

**NAYS**—Messrs. Ashe, John H. Bagley, jr., Beebe, Blackburn, Boone, Bradford, John H. Caldwell, William P. Caldwell, Carr, Cate, Caulfield, John B. Clarke of Kentucky, Collins, Cowan, Davis, De Bolt, Dibrell, Finley, Franklin, Fuller, Glover, Andrew H. Hamilton, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Levy, Luttrell, Lynde, McFarland, Meade, Mills, O'Brien, John F. Phillips, Poppleton, Rice, Riddle, Miles Ross, Scales, Schumaker, Sheakley, Slemmons, William E. Smith, Southard, Sparks, Springer, Stanton, Stone, Terry, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Walsh, Warner, Whitthorne, and Wigginton—61.

**NOT VOTING**—Messrs. Anderson, Atkins, Bass, Bright, Buckner, Campbell, John B. Clark, jr., of Missouri, Cochran, Cox, Culberson, Douglas, Durand, Ellis, Field, Gibson, Gunter, Robert Hamilton, Hancock, Hartzell, Goldsmith W. Hewitt, King, Lewis, Maish, McMahon, Metcalf, Milliken, Money, Morrison, William A. Phillips, Purman, James B. Reilly, Roberts, Saylor, Stenger, Stephens, Tarbox, Thompson, Waldron, Gilbert C. Walker, Ward, Warren, Wheeler, White, Jere N. Williams, and Wilshire—45.

So the appeal was laid upon the table.

The Clerk proceeded to read the list of names.

Mr. WOOD, of New York. I ask that by unanimous consent the reading of the names be dispensed with.

Mr. WALLING and others objected.

The reading of the list was completed, and the result of the vote was then announced as above recorded.

Mr. WOOD, of New York. I now move to proceed to a consideration of the report of the electoral commission in the South Carolina case.

The SPEAKER. That is the regular order.

Mr. SHEAKLEY. I move that the House now take a recess till ten o'clock to-morrow.

The SPEAKER. The Chair cannot entertain that motion.

Mr. SHEAKLEY. Business having intervened—

The SPEAKER. The Chair cannot entertain the motion.

Mr. O'BRIEN. I would like to know the reason. We are entitled under the law to make this motion.

Mr. LAWRENCE. I rise to a question which I suppose is in order.

Mr. SPRINGER. Do I understand the Chair to decide that the motion of the gentleman from Pennsylvania [Mr. SHEAKLEY] is not in order?

The SPEAKER. The Chair declines to entertain the motion.

Mr. WADDELL. I rise to a question of privilege.

The SPEAKER. Some one has taken away from the desk or borrowed for the moment the decision of the electoral commission. The Chair requests that it be returned to the desk.

Mr. SPRINGER. I hope it has been taken to some remote part of the earth, whence it will not be brought back again.

Mr. WALLING. And that the commission have leave to go with it. [Laughter.]

The SPEAKER. The Clerk will read the decision of the electoral commission.

The Clerk commenced to read the decision.

Mr. SPRINGER. I rise to a question of order. I understand the gentleman from Pennsylvania [Mr. SHEAKLEY] made a motion that the House take a recess until ten o'clock to-morrow morning.

The SPEAKER. The gentleman understands also that the Chair declined to entertain the motion.

Mr. SPRINGER. I was about to state that—that the Chair declined to entertain the motion. It seems to me it is unusual for the Chair to refuse to entertain any motion which is provided for by the parliamentary rules of the House.

The SPEAKER. The Chair desires—

Mr. SPRINGER. If the Chair will pardon me, I wish to say it is the duty of the Chair to entertain any motion that may be made in a parliamentary form. It is the privilege of the Chair to decide it out of order, and upon that decision the House may take an appeal.

The SPEAKER. The Chair has allowed great latitude in reference to this matter. The Chair, in fact, was not bound to entertain the appeal as made by the gentleman from Pennsylvania, [Mr. SHEAKLEY,] and could have cited former decisions to sustain him in that position; notably, the decision made by the then Speaker in 1869, when the occupant of the chair at that time stated that he declined to entertain the appeal on the well-known ground that when a point of order is once decided it cannot again be renewed, although additional reasons may be assigned for it.

Mr. SPRINGER. There has been no point of order on this question for a recess.

The SPEAKER. The Chair has decided, he thinks twice, the same point of order. But the Chair was desirous that the House might have an opportunity of expressing its opinion upon the position which he took in reference to that question. The House has now decided in accordance with the decision of the Chair, and the Chair for that reason declines to entertain the motion of the gentleman from Pennsylvania.

Mr. O'BRIEN. I rise to a parliamentary question.

The SPEAKER. The gentleman will state it.

Mr. O'BRIEN. It is this: I state the question with full deference to the decision of the Chair—

The SPEAKER. The Chair is aware of that.

Mr. O'BRIEN. If the motion to take a recess until ten o'clock to-

morrow is not in order—and I presume that is the reason why the Chair refuses to entertain it—when will it be in order?

The SPEAKER. The Chair desires to say to the House that he does not, of course, know what the intention of these motions is. He has only to look at the effect of them. The effect of these motions is dilatory, is delay. That is all that the Chair looks at—the effect of the motions. He criticises in no manner whatever either the intention or the motive of anyone.

Mr. O'BRIEN. I desire to say, as nobody on this side of the House desires delay, [laughter,] we do not object to the decision of the Chair. [Great laughter.]

The SPEAKER. The Clerk will proceed with the reading of the decision of the commission.

Mr. SPRINGER. The point of order to which I rose has not yet been decided. It is this: that it is the duty of the Chair to entertain any parliamentary motion that is submitted; that it is the privilege of the Chair to decide the motion out of order, and that it is the privilege of the House to sustain or overrule that decision. I desire the Chair to give a decision on the point of order, that the House may exercise its prerogative of determining whether the motion of the gentleman from Pennsylvania is in order or not.

The SPEAKER. The Chair has declined to entertain the motion of the gentleman from Pennsylvania.

Mr. HARRIS, of Virginia. And everybody understood the Chair but the gentleman from Illinois.

Mr. SPRINGER. I understand the decision of the Chair, and that it is such a decision as may be appealed from, as I understand it. Therefore, not desiring to offend the Chair—

Mr. BROWN, of Kentucky. I object to further debate.

Mr. SPRINGER. But standing on my rights as a representative of the people I respectfully appeal from that decision of the Chair.

The SPEAKER. And the Chair declines to entertain the appeal.

Mr. SPRINGER. Then I will appeal from the decision of the Chair to the people, who have elected a President of the United States who is now about to be counted out under this ruling.

The SPEAKER. In that particular the fullest sympathy of the Speaker is with the gentleman from Illinois, [Mr. SPRINGER.]

Mr. SPRINGER. I know that very well.

The SPEAKER. The Clerk will resume the reading of the decision. The Clerk resumed and completed the reading of the decision.

The Clerk then read the objections.

Mr. PHILIPS, of Missouri. I now ask that the testimony accompanying the objections be read.

Mr. WOOD, of New York. I hold in my hand the report of the testimony of the South Carolina case.

The SPEAKER. Debate is not in order.

Mr. WOOD, of New York. I object to the reading on the ground that there are twelve hundred and sixty-six pages of the report and testimony, which, at ten pages an hour, will take over five days to read. The object of calling for the reading of it is therefore intended to defeat the count altogether.

The SPEAKER. Debate is not in order. The Chair will submit the question to the House. The rule is that—

When the reading of a paper is called for and the same is objected to by any member, it shall be determined by a vote of the House.

The Chair will submit the question to the House whether this testimony shall be read or not.

Mr. WOOD, of New York. I repeat that it would take five days to read it.

[Loud cries of "No debate!"]

The SPEAKER. The Chair will listen to no debate, but now submits the question to the House whether this testimony shall be read.

The question was put; and there were—ayes 90, noes 138.

Mr. WOOD, of New York, and Mr. WALLING called for the yeas and nays.

The yeas and nays were ordered.

The question was put; and there were—yeas 87, nays 175, not voting 28; as follows:

**YEAS**—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Blackburn, Bliss, Boone, Bradford, Bright, John H. Caldwell, William P. Caldwell, Campbell, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochran, Collins, Cook, Cowan, Cox, Culberson, Davis, De Bolt, Dibrell, Douglas, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Hartzell, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Franklin Landers, Lane, Levy, Luttrell, Lynde, Mackey, Maish, McMahon, Mills, Money, Morrison, Mutchler, O'Brien, Odell, John F. Phillips, Poppleton, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Scales, Schumaker, Sheakley, Slemmons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Walsh, Warner, Whitthorne, Wigginton, Wike, and Jere N. Williams—87.

**NAYS**—Messrs. Abbott, Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crouse, Cutler, Danford, Darrall, Davy, Denison, Dobbins, Dummell, Durham, Eames, Eden, Egbert, Evans, Faulkner, Filton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hartridge, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hoskins, House, Hubbell, Hunter, Hunton, Huribut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moine, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Payne, Phelps, Pierce, Piper, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, John Robbins, Robinson,

Sobieski Ross, Rusk, Sampson, Savage, Seelye, Sinnickson, Smalls, A. Herr Smith, Strait, Stevenson, Stowell, Swann, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Walling, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—175.

NOT VOTING—Messrs. Anderson, Bass, Carr, Chapin, Durand, Ellis, Field, Gibson, Harrison, Goldsmith W. Hewitt, Hopkins, Frank Jones, King, Lewis, Meade, Metcalfe, Milliken, William A. Phillips, Purman, James B. Reilly, Saylor, Schleicher, Singleton, Stephens, Gilbert C. Walker, Ward, Wheeler, and Young—28.

Mr. DUNNELL. I ask unanimous consent that the reading of the names be dispensed with.

Mr. O'BRIEN. I object.

The Clerk completed the reading of the roll-call; and the result was announced as above recorded.

So the House refused to permit the testimony to be read.

Mr. WALLING. I move to reconsider the vote by which the House refused to allow the testimony to be read.

Mr. WOOD, of New York. I move to lay that motion upon the table.

Mr. STANTON. I rise to make a parliamentary inquiry.

The SPEAKER. The motion to lay on the table is not debatable.

Mr. HUNTON. I want a division of the question so that we may vote first on the motion to reconsider and then on the motion to lay upon the table.

The SPEAKER. The gentleman from Ohio [Mr. WALLING] moves to reconsider the vote by which the House refused to hear the testimony read, and the gentleman from New York [Mr. WOOD] moves to lay that motion on the table, and the question is first upon the motion to lay on the table. The question is not divisible in any way the Chair knows of.

Mr. WOOD, of New York. How did the gentleman from Ohio [Mr. WALLING] vote upon this question?

The SPEAKER. The gentleman from Ohio voted with the majority.

The question was put on the motion of Mr. WOOD, of New York; and on a division there were yeas 150, noes not counted.

Mr. SPRINGER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 177, nays 73, not voting 40; as follows:

YEAS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Cabell, Campbell, Candler, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Crounse, Cutler, Danford, Darrall, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Faulkner, Felton, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hartridge, Hatcher, Hathorn, Haymond, Hays, Hendee, Henderson, Abram S. Hewitt, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hunton, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Mills, Monroe, Morgan, Mutchler, Nash, Neal, New, Norton, Odell, O'Neill, Packer, Page, Phelps, Pierce, Piper, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Saylor, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Alexander S. Wallace, John W. Wallace, Ward, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, and Yeates—177.

NAYS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Beebe, Blackburn, Bliss, Boone, Bradford, Bright, John H. Caldwell, William P. Caldwell, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Cook, Cowan, Culberson, Davis, Dibrell, Douglas, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, Hartzell, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Luttrell, Lynde, Mackey, Maish, McMahon, Money, O'Brien, John F. Phillips, Poppleton, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Scales, Schumaker, Sheakley, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Walling, Warner, Whitthorne, Wigginton, and Jere N. Williams—73.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Blount, Carr, Cate, Chapin, Clymer, Cox, Davy, Durand, Ellis, Field, Flye, Gibson, John T. Harris, Harrison, Goldsmith W. Hewitt, Hill, Frank Jones, King, Lewis, Meade, Metcalfe, Milliken, Morrison, Oliver, Payne, William A. Phillips, Plaisted, Purman, James B. Reilly, Schleicher, Slemmons, Stephens, Swann, Gilbert C. Walker, Walsh, Wheeler, and Young—40.

So the motion to reconsider was laid on the table.

At the conclusion of the roll-call,

Mr. MACDOUGALL said: I ask unanimous consent that the reading of the names be dispensed with.

Mr. WALLING and Mr. RICE objected.

The Clerk read the list of names, and the vote was then announced as above recorded.

Mr. VANCE, of Ohio. I move that parts one and two of the testimony be read.

The SPEAKER. The House has already refused to have the testimony read. The greater includes the less, and therefore the Chair rules that the motion of the gentleman is not in order.

Mr. FRANKLIN. I move that the report of the committee be read.

The SPEAKER. What committee?

Mr. FRANKLIN. The report of the committee on the election in South Carolina.

The SPEAKER. That report is not before the House, and can be read only by unanimous consent.

Mr. SPRINGER. It is a part of the papers sent up with the objection filed by the gentleman from Missouri, [Mr. PHILLIPS.]

The SPEAKER. And the House has refused to have those papers read.

Mr. SPRINGER. *Non constat*, that the House may not desire to have a portion of the papers read.

The SPEAKER. The House having refused to have the testimony and the papers sent up to the desk read at this time, the gentleman from Illinois [Mr. SPRINGER] surely will not say that it is competent now for the Chair to entertain a motion to read a portion of those papers.

Mr. SPRINGER. It is the report of a committee of this House, the reading of which I suppose will not be objected to.

The SPEAKER. The real difficulty in this matter, the Chair desires to suggest to the gentleman from Illinois, [Mr. SPRINGER,] is the law. The law is binding upon the Chair. The Chair had nothing to do with the reporting of the law, but the Chair is bound to abide by the terms of the law.

Mr. SPRINGER. To that I have not objected.

The SPEAKER. The Chair hopes not, for the gentleman himself reported the law in part.

Mr. WOOD, of New York. I call for the regular order.

Mr. LAWRENCE. I desire to offer a resolution.

Mr. O'BRIEN. I desire to make—

The SPEAKER. The regular order being called for, the Chair recognizes the gentleman from Mississippi [Mr. HOOKER] to open the debate.

Mr. COCHRANE. I desire to offer a resolution. Is there anything before the House?

The SPEAKER. There is. The gentleman from Pennsylvania [Mr. COCHRANE] himself notified the Chair that the gentleman from Mississippi [Mr. HOOKER] would open the debate, and the Chair has recognized the gentleman from Mississippi as now entitled to the floor.

Mr. COCHRANE. I desire to submit a resolution, in order to bring the matter properly before the House.

The SPEAKER. The resolution will be read.

The Clerk read as follows:

*Resolved*, That the objections to the decision of the electoral commission upon the electoral votes of South Carolina be sustained by the House, and that said votes be not counted.

The SPEAKER. Does the gentleman from Ohio [Mr. LAWRENCE] desire to submit a resolution?

Mr. LAWRENCE. I think it will save time to take the vote on the resolution which has just been read.

Mr. O'BRIEN. Pending that resolution I desire to make a parliamentary inquiry.

The SPEAKER. The Chair will listen to it.

Mr. O'BRIEN. I respect the sentiment just now announced by the Chair, that the Speaker was acting under the law. Therefore, under the law, I desire to inquire whether it is not now in order for the House to take a recess until to-morrow morning at ten o'clock?

The SPEAKER. The Chair has answered that question many times to-day personally and at least once publicly.

Mr. O'BRIEN. We have had intervening business since the motion was made to take a recess. The law gives us the right to take a recess until to-morrow morning at ten o'clock. I do not make the motion for delay, but merely in order that the House may have time for reflection and consideration.

The SPEAKER. The entire spirit of this law, and in fact the letter of it, which binds the Chair, is that dilatory motions cannot be entertained by the Chair.

Mr. O'BRIEN. I do not make the motion for any such purpose.

The SPEAKER. The motion is of a dilatory character in effect.

Mr. O'BRIEN. I appeal to the Speaker to state whether he is willing from his high place to say that there are members of this House [cries of "Regular order!"] in favor of dilatory motions? I inquire at this time, as I inquired an hour ago, whether the motion I have indicated is in order. If it is, I desire to submit it.

The SPEAKER. It is not; the Chair cannot entertain the motion.

Mr. O'BRIEN. Very well; I submit to the decision of the Chair.

Mr. HOOKER. Mr. Speaker, the objection presented to the consideration of the House against the finding of the commission in the case of the electoral vote of South Carolina is predicated primarily upon the objection which has been presented generally to the action of the commission in refusing to go into the merits of these cases. By the action of the House, acting separately for itself, the commission was invested with authority to act as computers of the electoral vote and judges of what constituted "the true and legal electoral vote of a State." Failing to take jurisdiction of the subject-matter referred to them to the extent intended by the spirit and language of the law creating the commission, they have, in my judgment, failed to discharge the duty which devolved upon them, and, in the language of the gentleman from New York who addressed the House the other day upon a similar finding, the parties who have given them this authority are bound neither in law nor in morals to abide by the finding of the commission.

They were constituted under the terms of an act so plain and sim-

ple in its language, so obvious in its import and purpose, that it required the skill of lawyers to detect anything else in it than this plain and simple meaning. The second section of the act, which clothed the commission with power to decide in the case of dual returns from a State, declares that "all such returns and papers shall thereupon be submitted to the judgment and decision of the commission as to which is the true and lawful electoral vote of such State." That was the question and the sole question, under that clause of the act, which was submitted to the consideration of the commission—"to ascertain what constituted the true and lawful electoral vote of a State."

Again, in the same section it was provided that they "shall constitute a commission for the decision of all questions upon or in respect of such double returns named in this section." I call attention further to the oath of office prescribed in this section, by which each member of the commission swears, "I will impartially examine and consider all questions submitted to the commission of which I am a member."

The law further provides that "when there shall be more than one such certificate or paper, as the certificates and papers from such State shall so be opened, (excepting duplicates of the same return,) they shall be read by the tellers, and thereupon the President of the Senate shall call for objections." And when all such objections have been received "the papers, with the objections, proofs, and depositions, shall be sent to the commission." For what purpose? In order, in the language of the law, that they may decide—

Whether any and what votes from such State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed electors in such State, and may therein take into view such petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration.

Suppose, Mr. Speaker, it should be alleged that the great seal of the State affixed to the certificate is a forgery, or that the signature of the governor is a forgery. Does the commission mean to say that the two Houses could not inquire into that, or that the commission, under the law of its existence, could not inquire into such frauds? or if the great seal of State be genuine, and the signature of the governor be genuine, but the return of the canvassers be false and fraudulent, that the certificate of the governor can sanctify the fraud and thus cheat the people out of the "true and legal electors voted for?"

I say, sir, that if it had not been distinctly and fairly understood by the terms of this act that the commission should be clothed with power to investigate what constituted "the true and legal electoral votes of a State" where there were dual returns and a dispute of what constituted a real electoral vote, the commission would never have been created. It could not have received a dozen votes on this side of the House. That commission stands with reference to the two Houses precisely in the attitude of a commissioner in chancery to whom an account had been referred to be settled between contesting parties, one of them alleging that there was fraud in the account and the other denying it. If such a commissioner should undertake to refer the matter back to the tribunal which clothed him with authority without settling the very question for the decision of which he was constituted a commissioner, he would be in a similar position to this commission to-day.

More than that, Mr. Speaker; in this very case of South Carolina which we are now to vote upon the question was whether or not South Carolina had been overrun with troops by the order of the Federal Government and of the Department of Justice, so as to suppress the actual vote of her people. Yet, when you come to the finding of the commission, upon which we are now passing, you find a most extraordinary statement embraced in that finding. After passing upon the question of the failure of registration; after passing upon the question whether there was in South Carolina a republican form of government such as the Constitution guarantees to all the States, the republican party having said with reference to Louisiana in 1873 that her electoral vote should not be counted as she had no republican government; after passing upon all these questions and coming to the consideration of the main objection, so ably and eloquently presented to the commission by the gentleman from Ohio [Mr. HURD] and Mr. COCHRANE, of Pennsylvania, and by the counsel in the case, what do the commission say? They use these words, and I invite the attention of the House to the terms of the finding: That—

So far as the commission can take notice of the presence of the soldiers of the United States in the State of South Carolina during the election, it appears that they were placed there by the President of the United States to suppress insurrection, at the request of the proper authorities of the State.

How did it "appear" to the commission? How could it "appear" except upon evidence, taken on the one side and the other?

Yet, sir, when the objectors on the part of the House undertook to show by competent and satisfactory proof that these troops were not there according to the terms of the Constitution and the law, were not there upon the call of the Legislature of the State, were not there under the forms of law—when that proposition was made before the commission, they declined to entertain it. I say therefore that it is palpable that the commission have refused to take jurisdiction of the subject-matter which was submitted to them in this case.

I am not here to deal in epithets with regard to that commission. I am not here to characterize it as my distinguished friend from New York did, as having made a finding which is binding neither in law nor in morals. I am not here to refer to this commission, as did the

caustic and eloquent gentleman from Missouri, as infamous in its partisan findings. I do not propose so to speak of it; but I do propose to say that in the case of South Carolina, as in the case of Florida and the case of Louisiana and the case of Oregon, they have refused to perform the function with which the House by its separate vote invested them. They have refused to take evidence upon the subject-matter submitted to them; and therefore the House is not bound by the action of a tribunal which has refused to consider the very question submitted to it, and to take evidence upon the very subject which the House intrusted and confided to it.

This is patent, not only from the language of the law, but it is manifest that was the opinion of the joint committee of the Senate and the House, composed of seven of the House and seven of the Senate, in a report which they made with reference to this bill; for they said—and I do not presume they undertook to deceive this House or to deceive the Senate when they made that report—they said in that report:

All will agree that the votes named in the Constitution are the constitutional votes of the States, and not other; and when they have been found and identified, there is nothing left to be disputed or decided—all the rest is the mere clerical work of summing up the numbers, which, being done, the Constitution itself declares the consequence. This bill, then, is only directed to ascertaining for the purpose, and in aid of the counting, what are the constitutional votes of the respective States; and whatever jurisdiction exists for such purpose, the bill only regulates the method of exercising it.

Further they said in that report:

However important it may be whether one citizen or another shall be the Chief Magistrate for a prescribed period, upon just theories of civil institutions it is of far greater moment that the will of the people, lawfully expressed in the choice of that officer, shall be ascertained and carried into effect in a lawful way.

That was what this committee of conference of the two Houses reported to this House was the purpose and the object of this bill. At one time we find the commission receiving evidence as to the ineligibility of an elector, and at another time we find them refusing it; and promulgating the strange, startling doctrine that a person holding an office of "trust and profit" under the Government of the United States may be appointed or elected (for they are convertible terms) an elector though the Constitution expressly says that he "shall not."

The third ground of objection to the finding of the commission is in these words:

### III.

For that the Federal Government prior to and during the election on the 7th day of November, 1876, without authority of law, stationed in various parts of the said State of South Carolina at or near the polling-places detachments of the Army of the United States, by whose presence the full exercise of the right of suffrage was prevented, and by reason whereof no legal or free election was or could be had.

The commission refused to receive evidence as to this objection, and yet decide "that it appears to them" that the call for troops, and the use, or rather the abuse of them, in the late election in South Carolina was constitutional and rightful, and in accordance with the laws, and that too in face of the provisions of existing law making it a penal offense to station troops at or near a voting-polls on the day of election.

In support of this view I read the following section of the Revised Statutes of the United States:

No military or naval officer, or other person engaged in the civil, military, or naval service of the United States, shall order, bring, keep, or have under his authority or control, any troops or armed men at the place where any general or special election is held in any State, unless it be necessary to repel the armed enemies of the United States, or to keep the peace at the polls.

Section 5528 of the Revised Statutes of the United States provides:

Every officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, who orders, brings, keeps, or has under his authority or control, any troops or armed men at any place where a general or special election is held in any State, unless such force be necessary to repel armed enemies of the United States or to keep the peace at the polls, shall be fined not more than \$5,000, and suffer imprisonment at hard labor not less than three months nor more than five years.

Section 5532 of the Revised Statutes of the United States provides as follows:

Every person convicted of any of the offenses specified in the five preceding sections, shall, in addition to the punishments therein severally prescribed, be disqualified from holding any office of honor, profit, or trust under the United States.

Who pretends there were enemies to the United States to be overcome in South Carolina, or that troops were necessary to preserve the peace at the polls? No, sirs; these troops were sent to South Carolina in the interest of party, and not of the country. The gallant officers and men of the Army were prostituted to a mere police force, to carry the State for the republican party, and to support and abet the vast army of United States deputy marshals, who were scattered all over the State by the illegal order of the Department of Justice in the interest of the same unscrupulous party. And to-day the gallant Wade Hampton and W. D. Simpson, the legally elected governor and lieutenant-governor, are deprived of the power and authority to restore peace, quiet, and prosperity to the grand old State by the presence of these troops sustaining a usurper defeated by the clearly ascertained will of the people of South Carolina.

Now, sir, if this commission, acting within the powers and duties conferred and imposed upon it, where there were dual returns from a State, had proceeded to take proof to ascertain who were "the true and legal electors of the State," I am free to admit that I should have been prepared to stand by their findings, however unjust it may have been. But when they refuse to receive any evidence of

such fraud alleged or of illegality and disqualification of the electors decided by them to be chosen, I hold that the House is not bound by their action, and that they have failed, refused, and neglected to perform the very duty they were created to discharge, and that in effect they have done nothing more than the opponents of the bill claimed was within the powers and duties of the Presiding Officer of the Senate, namely, to open and count the electoral vote.

This commission was created and grew out of the difference of opinion existing as to the powers and duties of the Presiding Officer of the Senate in reference to counting the electoral vote, and never would have had existence but upon the idea that it was, in equity and good conscience, bound under the law to take proof wherever there was an allegation of fraud, and to find who were "the true and legal electors" chosen by the people at the ballot-box in the late election.

Mr. LAPHAM. Mr. Speaker, I was one of those who entertained the opinion that there was no power under the Constitution to create this electoral commission. I also opposed the passage of the bill creating it as not a measure of practical legislation. I am now called upon to defend the action of the commission against the assaults of a portion of those who clamored for its creation.

What has this electoral commission done to bring upon it this great reproach? It has decided the principal question which was submitted to it for its determination: the question whether the two Houses of Congress, acting separately or acting conjointly, have any power under the Constitution and the laws to go behind the electoral certificate coming from the State in the mode provided by such constitution and laws. But for the difference between the two Houses upon this question, there would have been no occasion for creating this commission. It was the first and paramount question for its determination, upon which there was a radical and irreconcilable difference between the two parties.

How has it determined it? It has decided it in accordance with the uniform practice of the Government from the adoption of the Constitution to this time. It has decided it according to the unanimous judgment of both Houses of Congress in the proposed legislation in the year 1800.

They inserted this proviso:

*Provided always,* That no petition or exception shall be granted, allowed, or considered by the grand committee which has for its object to dispute, draw into question the number of votes given for an elector in any of the States, or the fact whether an elector was chosen by a majority of votes in his State or district.

I think the members of the commission, whether they belong to this House or to the Senate, or whether they come from the Supreme Court, can well afford, when they are charged with being perjurers and corrupt men, to repose for their defense upon the action of the statesmen of the year 1800, precisely in accordance with the decision the commission has now made.

Mr. Speaker, when this decision was announced, there was an end, practically, to the electoral controversy of the year 1876, and gentlemen on the other side, if they had acted fairly, as a portion of them do seem inclined to, upon the pledges made to secure the adoption of this electoral commission, would have withheld any further opposition to the electoral count except, perhaps, in the case of the State of Louisiana.

And yet what is the history of the action of these objectors down to the present time? We have had objections not only to the vote of the State of Louisiana, which were perhaps justified by the constitutional question there raised, but to the State of Michigan; so frivolous they were unworthy of notice. We have had objections to Nevada equally frivolous. We have had objections to Pennsylvania equally frivolous. We have had objections to the count of the electoral vote of the State of Oregon, so weak that the entire fifteen members of the commission decided that the pretense upon which that objection was made was utterly without foundation.

And now we are brought to the question arising in the State of South Carolina, and what are the facts surrounding this case? On the first day of the session a committee was appointed to go to that State for the purpose of investigating the question of its electoral vote. I had the honor to be one of the members of that committee. I have before me the report of the majority, and I know what is the report of the minority, and the committee are unanimous in deciding that upon the face of the returns the electoral vote of the State of South Carolina was given to Hayes and Wheeler.

Upon that committee was one of the honorable gentlemen [Mr. ABBOTT] now composing the electoral commission. He has himself sent to this House over his own signature a report that the Hayes electors, upon the face of the returns, have 851 majority in the State of South Carolina, and yet he voted in the commission yesterday to reject the vote of that State for Hayes, after the fifteen commissioners had decided the vote of the Tilden electors should not be counted, thus voting to disfranchise the State, and his friends here now clamor and talk about *partisanship* in the action of the commission. Another member of that committee was the honorable gentleman from Missouri, [Mr. PHILIPS,] who this morning rose in this House and asked that all the evidence which has been taken in that case should be read at this time, which would have occupied from three to four days, and yet he complains when we say his object is to delay the electoral count!

Mr. Speaker, the conduct of those who are struggling by these tech-

nical objections and efforts at delay to defeat the consummation of this count will admit of but one interpretation. The motives which prompt it are fairly indicated in what was said in the meeting at Tallmadge Hall in this city last evening:

Hon. R. M. T. Hunter, of Virginia, believed it was their duty to stop the count, ANYTHING TO BEAT HAYES!

This appeal, sir, comes from the men who four years ago abandoned the high position theretofore occupied by the democratic party of the nation and went about in disregard of its cherished principles, clamoring for the support of a man who had done more than any other man then living to traduce the party and vilify its record, under the rallying cry, "ANYTHING TO BEAT GRANT!" Now the shout is, "Anything to beat Hayes!" It was so announced, as I have quoted, in the democratic indignation meeting in Tallmadge Hall.

Those who make these complaints talk about fraud in the face of the fact that \$50,000 was offered to purchase an electoral vote for Tilden in South Carolina; that \$100,000 was offered to purchase another vote for Tilden in Louisiana; and that \$17,000 was expended for the manufacture of one out of Cronin's nose in the State of Oregon. The "Gobble" dispatches have all come to light. The cipher dispatches have all been proved and interpreted. They point to a private office at No. 15 Gramercy Park, New York, as naturally as the needle points to the pole. And yet Mr. Tilden says he did not do it. Pelton says he did not do it. The Senator from Oregon [Mr. KELLY] says he did not do it. Patrick, if he were here, would I have no doubt swear he did not do it. It is a queer freak of the lightning. It did it itself. [Laughter.]

And thus, Mr. Speaker, the electoral count, over which so much ado is being made, has come down at last to this complexion. It reminds me of a colloquy between two editors in the city of New York on Saturday last. One of them said to his companion, "What do you think of this electoral commission, and what is going to be the result?" "I do not know," replied the other, "and I do not care much. It has come to be only a strife and controversy between eighty thousand office-holders on the one hand and five hundred thousand office-seekers on the other." The gentlemen on this floor who imagine or presume that the people are going to take notice of their factious opposition to this proceeding in any other way than to condemn it, mistake the obvious result of the course of action which they have adopted.

[Here the hammer fell.]

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had adopted a resolution that the decision of the commission upon the electoral vote of the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The message further announced that the Senate was now ready to meet the House to proceed with the counting of the electoral votes for President and Vice-President.

#### COUNTING THE ELECTORAL VOTE.

Mr. GOODE. No gentleman upon this floor supported the bill creating the electoral commission more cordially and earnestly than I did. No gentleman here is more willing to accept his full share of the responsibility attaching to the creation of that commission. No gentleman here or elsewhere was more grievously disappointed when it became apparent that a majority of that commission were unwilling to hear and determine the matters submitted to them according to the truth and the very right of the case. I supported the bill in the interest of peace, of law, and of order. I believed, whatever might be said of Senators and Representatives, that five judges of the Supreme Court might be found who would be willing and able to rise superior to considerations of party and of section and to decide the question in the fear of God and in the spirit of the oath which they were required to take.

But, sir, the question now arises, what shall be done by the representatives of the people in this great public emergency? I answer unhesitatingly that we must do unto others as we would have them do unto us under like circumstances; that we must accord to the republican party what as a party we would unanimously have demanded if the decision had been favorable to us and adverse to them. If the pound of flesh must be paid, and Shylock will have it, let him have it, because it is so nominated in the bond; but let him see to it that in taking the forfeit he shall not spill one drop of Christian blood. This bill was passed by democratic votes. It was hailed by the country as not only a peace measure, but a democratic measure. And, sir, my deliberate judgment is that it would be not only unwise, but unmanly, to attempt to reverse the decision by any indirect method or by any clamorous complaints. In my judgment, it is the dictate of wisdom, of policy, of manhood, and of honor to stand by the compact into which we have deliberately entered, and to execute in good faith the law which we have made. So much on that point.

Now, sir, as to the matter under consideration. The time was, in the golden age of the Republic, when the voice of South Carolina was potential in these legislative halls. The names of her Lowndes, her Pinckney, her Rutledge, her Hayne, her MacDuffie, her Calhoun, her Legare, and other illustrious sons will be cherished as household words in the land so long as liberty has a votary or the nobler at-

tributes of humanity find a location in the breasts of our people. To-day South Carolina is voiceless here, so far as the intellect, the intelligence, the real worth of that once proud State are concerned.

The harp that once through Tara's halls  
The soul of music shed,  
Now hangs as mute on Tara's walls  
As if that soul were dead.

Louisiana and Florida, through their noble Representatives on this floor, have been heard in eloquent and indignant protest against the grievous wrong which has been inflicted upon them, and

Against the deep damnation of their taking off.

So far as those young Commonwealths are concerned, the deed has been done, the books have been closed, the fiat of the electoral commission has gone forth, and now the lifting of the curtain in the closing act of the drama discloses to the gaze of forty millions of freemen South Carolina, one of the original thirteen States, sitting, like Niobe, all tears, mute and voiceless in her woe, with manacles on her limbs and the hand of the despot upon her throat.

Sir, I announce it as a fundamental proposition, upon which I wish to invoke the deliberate judgment of the American people, that on this roll-call of States in the selection of Chief Magistrate the vote of no State should be counted which has been carried at the point of the bayonet; and if the enunciation of that proposition does not touch a responsive chord in the breasts of the American people, then is their glory departed and the blood of the Saxon no longer courses in their veins.

If military interference on the part of the Executive with the freedom of elections in the States of this Union shall be permitted to go unchallenged by the representatives of the people and to pass into history as a precedent, then it is useless to deny the fact that the public liberties are seriously imperiled. Edmund Burke said:

It is by lying dormant a long time or being at first very rarely exercised that arbitrary power steals upon a people.

No greater danger could possibly threaten us than the interposition of the military arm of the Government in the conduct of elections. The voices of the past, the traditions of the mother country, and the warnings of the fathers of the Republic, all furnish beacons to guide us upon this subject.

In the reign of George II, the British Parliament enacted a law that no troops should come within two miles of any place except the capital or a garrisoned town during an election. And when the military had been called out to quell an alleged riot at Westminster election in 1741 in was resolved "that the presence of a regular body of armed soldiers at an election of members to serve in Parliament is a high infringement of the liberties of the subjects, a manifest violation of the freedom of election and an open defiance of the laws and constitution of this kingdom;" and the House of Commons ordered the persons concerned to attend the house where they were compelled to submit to a severe reprimand from the speaker. And so cautious was George Washington in the exercise of the military power while he was President that he would not even call out the militia to put down the whisky insurgents in the State of Pennsylvania, who had been hardy enough to perpetrate acts which amounted to treason, being overt acts of levying war against the United States, without first sending commissioners to represent to them "how painful an idea it is to exercise such a power, and that it is the earnest wish of the President to render it unnecessary by those endeavors which humanity or love of peace and tranquility and the happiness of his fellow-citizens dictate."

What are the facts in regard to South Carolina? We have seen her State government overthrown, her Legislative Assembly dissolved, and an alien adventurer installed as her governor by the power of the Federal bayonet. We have seen her patrimonial estate confiscated by the hungry vultures who have flocked there to feed and fatten on her vitals. We have seen the mandate of her supreme court nullified by the simple edict of a Federal judge, who has exhibited all the subservience and servility of a Jeffries without any of his talent or ability. We have seen her proud-spirited, but helpless and unarmed people disfranchised and subjected to the arbitrary rule of military masters. We have heard the wail of agony and of woe as they reel and stagger under the grievous load of a burdensome taxation and cry out in bitter agony of soul, "How long, O Lord, how long!"

The testimony of our committee shows that in the recent campaign and on the day of election there were United States troops posted all over that State; that they were sent there, without legal excuse, to control the election, to overawe the people, and intimidate them in the exercise of the elective franchise. It shows that even while this Congress has been in session the American people have seen the State-house at Columbia filled by soldiers of the Regular Army, with fixed bayonets, guarding the entrance to its halls, while the corporal of the guard inspected and decided upon the credentials of the members. They have seen an armed soldiery employed for the illegal and unconstitutional purpose of sustaining a bogus governor and a usurping Legislature, against the solemn judgment of the supreme court, composed of republican judges. And, as if to cap the climax of the iniquity and to fatigue the indignation of the American people, we have had issued by the President of the United States within the last few days an imperial edict forbidding the citizen soldiers of South

Carolina to assemble peaceably for the purpose of celebrating the birthday and commemorating the virtues of the Father of his Country.

And all this was done that order might reign in Warsaw, and upon the ridiculous assumption that it was necessary to preserve the public peace. Mr. Speaker, under a full sense of the responsibility resting upon me, I declare in the presence of this House and the country that the real disturbers of the public peace in South Carolina have been General Grant and his coadjutors, while the only promoters of the public peace, have been that Chevalier Bayard, that king of men, Wade Hampton and his devoted followers. [Applause.]

I have, I believe, but a minute and a half left and I will yield that time to the gentleman from Missouri, [Mr. PHILIPS,] who had the courtesy to yield his place in the debate to myself.

Mr. PHILIPS, of Missouri. Having lost my place in the discussion, I do not wish to interject my speech at this point.

The SPEAKER. The Chair desires to say that any time which is not consumed by the members speaking will be reserved so as to give an opportunity to other gentlemen to be heard, and the Chair reserves the minute and a half not occupied by the gentleman from Virginia for that purpose.

Mr. LAWRENCE. If I could shorten this debate and induce the House to vote upon the resolution before us, I would willingly consent to be silent. But I know very well that two hours will be consumed in debate whether I speak or not, and hence I will occupy ten minutes of the time. We are confronted with a great question, and it becomes us here and now to meet it in a spirit of patriotism and, if we can, with a purpose which shall fill the measure of statesmanship. Shall a State of this Union be disfranchised and denied any share in determining who shall be President and Vice-President of the United States? This is the question which meets us now. I implore gentlemen upon the other side of the House to pause before they set a precedent which will invite the action of Congress to go into a State of this Union to investigate the matter of its election and then say to that State that it has not been conducted according to our liking and that therefore it shall have no share in the election of President and Vice-President of the United States. I ask the attention of the gentleman from Mississippi [Mr. HOOKER] who first spoke upon this question to the result which may follow the decision of the House. If this House can make inquiry now whether an election has been interfered with by the soldiers of the United States in South Carolina, can it not in years to come equally make inquiry whether the votes of the "bull-dozed" districts of his own State may fail to represent the wishes of the people and should therefore be rejected from the count when the Houses of Congress may come to ascertain how the vote of the State has been given for President and Vice-President?

Let me ask the gentleman from New York [Mr. COX] whether he is willing that we shall set a precedent now by which at the next presidential election we may go into that State and by proof ascertain whether the vote given in the city of New York was fairly obtained, was a fair representation of the wishes of the people, or whether there was repeating and ballot-box-stuffing and other election frauds, and if this should be ascertained by the action of Congress that the vote of the State should then be thrown out for that reason? Sir, if such a doctrine as this is once established, the election of President forever hereafter may not depend upon the returns which shall be sent up from the States, but it may be controlled by the action of Congress; and a party majority in the two Houses of Congress may really and practically elect the President of their choice, whatever may have been the returns of the election sent up from the States.

I know some of the objections that are made to the vote of South Carolina. It is said that troops of the United States were there on the day of election. How many soldiers were there? The State has thirty-two counties, with four hundred and ninety-one voting precincts and polling-places. By the census of 1875 it had a total population of 925,145, including 110,744 colored, and 74,199 white voters. On the 30th September, 1876, there were in the State only five hundred and eighty-nine officers and soldiers of the United States, or one soldier for every sixteen hundred and seventy of the population. On the 7th of November, the day of the election, the number of officers and soldiers was fifteen hundred and twenty-six, or one for every six hundred and six of the population. These were distributed in small squads at sixty-seven different places, at thirty-six of which the number did not exceed thirteen. Not one in seven of the voting-precincts had any soldiers therein. There were four hundred and twenty-four of the four hundred and ninety-one precincts without a soldier.

Now, why were the soldiers there? The act of Congress provides that—

No \* \* \* officer or person \* \* \* in the military \* \* \* service \* \* \* shall have \* \* \* any troops \* \* \* at the place where any \* \* \* election is held in any State, unless it be necessary to repel the armed enemies of the United States or to keep the peace at the polls. (Revised Statutes, section 2003)

Here then is an express statute which authorizes troops to be used for the purpose of keeping the peace at the polls.

Will any gentleman on this floor say that when there is intimidation and violence, when armed men are hovering around the polls for the purpose of keeping citizens away, for the purpose of depriving them of the right which is given to them by the Constitution of the

United States to vote for electors of President and Vice-President of the United States, that there shall be no protection afforded to them? Sir, Congress by this law has determined otherwise, and I now say here that an American soldier can never be better employed than when he is giving protection to an American citizen in his attempt to exercise the right of suffrage. South Carolina, and probably every State in the Union, has provided by law for such protection under State authority by civil officers and with power to call on the *posse comitatus* and even the State military forces.

It is not necessary that I should remind gentlemen upon this floor that South Carolina has been afflicted during the past year with the massacres of Hamburg and Ellenton, with the riots of Charleston and Cainboy and other similar disturbances; in all of which the unfortunate colored men, the republicans of the State of South Carolina, suffered at the hands of the democrats who were armed for the occasion and who repeatedly committed acts of violence and followed them by murders in large numbers, to the eternal disgrace of that State. It was because of these facts that troops were sent to the State of South Carolina.

It is abundantly shown by the testimony taken by the committee which investigated the election in South Carolina that no voter of the State, not one, was ever interfered with by any soldier of the United States; that not one solitary voter of the State was ever denied the right to freely exercise the privilege of voting, either by any soldier or any deputy marshal of the United States. These are the facts.

I have not time to go into this testimony in relation to South Carolina, nor is it material that I should do so. I have heard a great deal said against the electoral commission in the debates on the presidential question. I did not vote for the bill to create that commission. But after some examination of the authorities upon the several questions submitted to that tribunal, I undertake to say that they decided them in accordance with law and principle. There is not one respectable decision by any respectable court in this country that contravenes any one conclusion arrived at by the electoral commission.

If I were to make any criticism at all, I would say the commission had no power to inquire into the eligibility of an elector, but I do not understand the commission maintained that it had any such authority; and with this understanding I now say that the decisions of this august tribunal will be approved by the legal mind of the country, and will be followed by all political parties hereafter. It has given to an important branch of law a vast fund of useful information, and established great principles which may avert confusion and controversy if not civil war hereafter. How any member of this great tribunal could, without evidence to impeach the electoral vote of the State of South Carolina, solemnly record his opinion against receiving it is one of the marvels which no man can satisfactorily explain. Such opinion finds no sanction in law; none in precedent; none consistent with safety to the States; none consistent with popular liberty, with the peace of the country, or the preservation of the Republic.

My friend from Mississippi [Mr. HOOKER] has read from the report which was submitted to the House when the electoral bill was first reported. Sir, the foundation of this and all laws is in the Constitution of the United States, which provides that—

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates [of the votes by electors] and the votes shall then be counted.

Here is the whole authority with which the two Houses of Congress are clothed; and all the authority which could be given to the electoral commission is simply the authority to count the votes.

Now will it be said that this authorizes the commission to "go back of the returns" to hear proof, to go into the State and make inquiry? If you were to adopt that construction of these words of the Constitution, a similar construction would enable every returning board in every State of this Union to refuse to receive the returns sent up by the county canvassing officers, and to proceed to hear proof and to determine whether the election in each county was fairly conducted, and to decide it, not according to the ideas of the local officers intrusted by law with the power to make the decision, but according to the ideas of the returning boards themselves.

That is the very matter of which gentlemen on the other side of this House have complained in the case of Louisiana. In that State the returning board was authorized by law to hear proof and make the inquiry. That law grew out of a very peculiar condition of things in Louisiana, which I hope will not continue to exist, and which does not exist in other States, or at least in but few of the States. But there is no such law here and no such authority, and these words of the Constitution cannot by any known rule of interpretation or construction be read as conferring any such authority.

[Here the hammer fell.]

The SPEAKER *pro tempore*, (Mr. VANCE, of North Carolina.) The time of the gentleman has expired.

Mr. FRANKLIN. Mr. Speaker, it is impossible to enter into an extended discussion in the short time I am allowed under the rule. The end of this thrilling drama is rapidly approaching. The beginning of the second century of the Republic will be marked by a great political crime against the liberties of the American people. Unless this House interposes in behalf of their constitutional rights; unless the unjust, illegal, partisan, and infamous action of the majority of the electoral commission be reversed and this House prevent its consum-

mation, a usurper, close upon the heels of the dying hours of this Congress, will be installed as the Chief Executive of the nation.

When the electoral bill became a law its passage was met with acclamations of joy by the whole country. A vast majority of the people approved it, indorsed it, and hailed it as the harbinger of peace and good government. This House presumed, the country presumed, and the presumption was justifiable, because all thought that in a body composed as this tribunal was, of five distinguished members of each House of Congress, and five of the justices of the Supreme Court, the highest tribunal in the world, that a full, free, careful, and searching investigation and analysis would be made into the alleged frauds and corruptions in connection with the elections of November last for President and Vice-President. The greatest question that was ever submitted to any tribunal on earth was submitted to this.

I, in common with the entire delegation from my State in both branches of Congress, gave this measure my hearty support, and with the same lights before me I should do so again. I did not think then, nor do I now think, that we exceeded our constitutional powers in doing so.

Why, Mr. Speaker, the country knew full well that the republican candidates had a *prima facie* case so far as Louisiana and Florida were concerned. But, sir, the country expected, and had a right to expect, that this commission would inquire and ascertain who were the true, lawful, and constitutional electors chosen by the people. Men of high distinction in both branches of Congress asserted that that was the prime object sought. Yet, sir, instead of making a careful inquiry as to who were the truly and lawfully elected electors in the disputed States, they have, from the time of their first sitting, persistently refused to receive any evidence necessary to ascertain such fact. In doing so they have totally disregarded the law under which they are acting, and in the language of the gentleman from New York, [Mr. FIELD,] used some days ago, their opinion is entitled to no respect; and such, in my opinion, will be the judgment of the country.

Suppose that this foul wrong be done? What a mockery of justice it will be! When your President stands on the eastern portico of the Capitol to deliver his inaugural, he cannot, as his predecessors have done, stand there in the full blaze of the light of heaven and say he has been called to the highest position on earth by the voice of his countrymen. He cannot say that he is the chosen ruler of the people. He can only say, "I stand here by the grace and favor of returning boards, whose fraudulent action has shocked the sense of justice throughout the whole land." He cannot congratulate himself that a majority of the people of this country have reposed in him the high trust of Chief Executive of the nation. As he journeys from the Capitol to the White House it would not be inappropriate for him to read what President Grant has said in reference to this matter. It is this:

No man worthy of the office of President of the United States should be willing to hold it if counted in or placed therein by fraud. Either party can afford to be disappointed in the result, but the country cannot afford to have the result tainted by the suspicion of illegal or false returns.

This should not escape his memory. He should hang these words in the East Room of the Executive Mansion and daily reflect upon them.

Ah! how uneasily he will rest beneath the robes of ill-gotten power. How unshapely they will fit about him, and how unseemly they will appear. He will enjoy the unenviable distinction of knowing that he is a President by fraud, by perjury, and by the manipulations of illegal and unconstitutional returning boards. The proof to sustain this has been offered, and it was the duty of the commission to receive it. But forgetting that they were to decide this question according to the grand principles of law and justice, they have acted as though they were delegated as mere partisans to devise a mode under which the election of the republican candidate could be declared. Look at your party. Scarcely a decade of years ago it walked like a giant through the land. It was invincible in numbers in almost every State in the Union; its decrees were uttered only to be obeyed. It ruled with kingly power. It held States as provinces, and with its military heel upon the necks of prostrate peoples, it through its National Legislature made the organic law for once sovereign and independent Commonwealths, and with regal arrogance and insolence said, "This shall be your constitution or the sword shall rule in your land." It went with the bayonet and the law and compelled obedience.

Behold how changed the scene! Now more than half the States have enlisted under the banner of democracy, and this once invincible republican party has been defeated for the Presidency by a majority of more than a quarter of a million of votes, and is sustaining the illegal and fraudulent action of returning boards that have been denounced as infamous by every patriot in the land. All this is now necessary to prolong your power. This is no victory for you. The better men of your party so regard it. It is fruit that will turn to ashes upon your lips. This is the crowning outrage that will sweep you from power forever.

The gentleman from Ohio [Mr. LAWRENCE] seems to fear that the State of South Carolina will be disfranchised. He is afraid that some of her rights will be invaded or denied by the action of this House. Whence this sudden zeal in behalf of this oppressed State? Many

glorious memories cluster around the honored name of South Carolina. She was one of the thirteen colonies that assisted by her valor and heroic patriotism in the establishment of American independence. She was one of the first colonies that rallied under the banner of freedom in the war of the Revolution. Her name is historic. The deeds of her sons in behalf of liberty are a part and parcel of the glory of this country.

Your party, taking advantage of her prostrate condition, filled her borders with Federal bayonets, and reduced her from the high position of a sovereign and independent State to that of a province. We desired and offered to show to this commission that no free and fair election for President and Vice-President had been held there; that the people were under duress; were overawed by your military power, and yet all this was denied by the majority of the commission.

Sir, recollecting the high-handed tyranny of the republican party; remembering its acts, disfranchising whole commonwealths; remembering how, with the aid of Federal bayonets, it has hushed to silence the voice of the American people, it seems strange to me to hear one of its representatives talking of disfranchising a State. It seems absurd, and should cause the blush of shame to redden the cheek of him who utters it.

You talk of the rights of States! You cannot invade their false certificates, you cannot go behind them; forsooth it would invade the doctrine of State rights. Ah, what a mockery! Why, sir, your party has trampled upon State sovereignty from the day of its accession to power until the present hour. Unconstitutionally and illegally it laid its mailed hand upon Virginia, and without the warrant of law rent the grand old Commonwealth in twain—a State the mention of whose name recalls the glorious record of our revolutionary fathers. She gave an empire to the Union. She did more to constitute and frame this Republic than any of the colonies; and the labors of her sons, both in the councils of the nation and in the field, will be revered among all men who love liberty as long as an English-speaking people inhabit the earth.

You say you cannot go behind the action of the returning boards. You dare not go behind them, for if you do the truth will be asserted, and when that is done your defeat will follow.

The gentleman from Virginia [Mr. GOODE] says that South Carolina will cry in her anguish "How long, O Lord, how long shall these things be!" I tell him they will continue just so long as we, the Representatives of the American people, stand here and allow them to be continued. Just so long as we support the Army to invade and tear down the sovereignty of these States, these things will exist. We on this side of the House have denounced the action of this commission as an infamy; almost every member of the democratic party who has raised his voice has so denominated it. We tell the country that this commission has not obeyed the law; that it has refused to exercise the powers delegated to it. We say it has trampled under foot the law we gave to it, and in so doing has committed a grievous wrong upon the people of the country. Yet, sir, I undertake to say that if we stand here and acquiesce in it, and do not exercise the powers given us by the Constitution and the act itself to prevent this wrong being done, we become a party to it. This is a plain question. I ask you how can we go before the American people and say that the action of this commission is infamous, say that it is illegal, say that it disregarded the law under which it acted, say that it has violated the rights of forty millions of people, and justify ourselves, unless we use all the constitutional means in our power to prevent the consummation of this fraud. I for one, sir, do not intend to rush with unseemly haste to its consummation. This House should, in the exercise of its constitutional power in the interests of the country, prevent the completion of this wrong. I shall never consent to ratify the action of the electoral commission, because in doing so I would esteem that I had proven recreant to the rights of the people.

[Here the hammer fell.]

Mr. BANKS. Mr. Speaker, a few words upon the objections to the count of the electoral vote of South Carolina will be all that I desire to say at this time. By misrepresentation and vituperation the country was led to believe that the condition of that State was such that it would be impossible to give any honest or just representation of the opinions of the people, and that at each election heretofore and now fraud, corruption, and violence had invalidated any expression of the will of the people. When I went there as a member of a committee of the House I had something of that feeling myself. But when, with my associates on that committee, I went to that State to investigate the condition of political affairs and the proceeding as to the electoral vote, we were astonished when we ascertained the facts. Taking every vote that had been given by everybody on all sides, making no question of violence or intimidation, or the interference of armed men, or the failure of incapable or unscrupulous officers to make the returns; taking twenty-five or thirty precincts that were absolutely without any sufficient claim in law to be counted as the votes of the people—taking all these, the vote of South Carolina for the republican electors was as indisputable as the vote of Massachusetts or any other State in the Union; and there was not one member of the committee that could raise a question upon the proceedings in that election or the result as it was ascertained and declared by the returning officers of that State; so far as the returns upon their face indicated the action of the people as to any action of the canvassing officers of the State thereupon.

But, sir, objection is made upon another ground; and the nature of this objection not only justifies the people of that State and their proceedings in the late election, but it vindicates absolutely and perfectly the integrity of the electoral commission and their adherence in every decision that they have made to the principles of law, constitutional and statutory, as the rule of their judgment.

I do not share the objections which have been made to the proceedings of the electoral commission on the ground of their yielding to partisanship or sectional influence. I see in these proceedings nothing but the strictest and the clearest adherence to law and to justice. Since the beginning of the Government there have been two methods of interpretation of the law and of the Constitution. One was what was granted to the Government to keep it in existence; to continue its authority; to execute its laws, and to perpetuate its power. In the opinion of one class of people and one class of judicial officers, that which was necessary for this purpose was legal and constitutional; while in the opinion of another class of judicial officers and another class of citizens, anything which enabled the Government to perpetuate its existence was illegal and unconstitutional. That is the method and basis of interpretation of this statute and the proceedings of this electoral commission. What was necessary to execute the law for counting the vote was in their opinion illegal and unconstitutional; and, on the other side, that which was necessary to ascertain and declare the vote and prepare for the inauguration of officers who were elected by the people was legal and constitutional.

Now, see how this principle applies to the first objection that is made. It is said the constitution of South Carolina requires a registration law to qualify its citizens for voting, and because the Legislature has not passed a registration law, therefore the electoral vote of that State is invalid and ought not to be counted. It is certainly a new principle and an unjust principle in the interpretation of a law which deprives any man of the exercise of his rights because of the default of another. There is not a voter in the State of South Carolina who had it in his power to pass a registration law, and there is not a voter under any sort of just interpretation who is deprived of his right because there was not a registration law. If the constitution requires it, and the Legislature fails to execute that provision, the people who had the right to vote under the laws which existed ever since the creation of a State cannot be deprived of their long-time privileges and franchises, which they have the right to claim and have been accustomed to exercise, because of that failure on the part of the Legislature.

But supposing we admit because there is no registration there can be no electoral vote, what follows? That there is no State government; because its officers are elected by the very same men who voted for the electors. There can be no courts of justice; there can be no constitutional assessments or collections of taxes; no schools for the children; no means of defense against domestic violence and the invasion by foreign enemies, and none of those privileges and powers which attach to the very existence of a State, and which cannot be taken from it without destroying the State itself.

These gentlemen say unless you deny all these rights to the State, unless you deny to the State the right to defend itself against domestic violence and foreign invasion, the electoral vote is not to be considered valid. To make this interpretation in regard to South Carolina, so to judge the action of that people, would be to make that State the brainless and soulless offspring of a brainless and soulless people. Gentlemen say because soldiers have been sent there the electoral vote must not be counted. Sir, the soldiers have been sent to the State of South Carolina because, under the Constitution, the executive officer of that State required them for the purpose of suppressing domestic violence. The whole State swarmed with armed men. Every man capable of duty in the city of Charleston is to this day and this hour armed to the teeth and organized into military companies and attached to regular associations, not to sustain the laws of the State or the constitution of the State, but as enemies of the State and the government, and it is so in every part of the State of South Carolina.

Mr. HOAR. You do not mean to say blacks as well as whites?

Mr. BANKS. I mean every white man. The same is true of every other part of the State. The committee saw these men at Columbia when they went there. They were hurried away by the orders of their leaders, but there were enough to give us an idea of their purpose. Every white man, every democrat capable of bearing arms, is organized in those military associations, and opposed to the State government, and, if they dared, to the United States Government as well.

That which the gentleman from Virginia calls citizen soldiery, and for which he mourns because these men were not allowed, with their arms and in their military organizations, against the proclamation of the governor and the President of the United States, to celebrate the birthday of Washington; these men whom he calls citizen soldiers are men armed against the law for the destruction of the State government as it exists, and without doubt hostile to the Government of the United States as it exists.

Are we to say, then, these objections are to be admitted which destroy not only the character of the State, but deny the power and right of the people to preserve the integrity of their government and to defend themselves against domestic violence? If we so declare, then all that which admits of the right of defense on the part

of the Government of the United States and the capacity to defend its rights, is illegal and unconstitutional and despotic, while that which destroys the State and the Union is legal, constitutional, patriotic, and just. So the honorable gentleman from Mississippi declares the commission is unworthy of respect because it assumes to decide what powers have been conferred upon it and what not by the law which created it. Sir, the honorable gentleman—

[Here the hammer fell.]

Mr. PHILIPS, of Missouri. Mr. Speaker, the discussion of the but little-varying issues arising on the electoral count is growing monotonous. Invective has about exhausted itself, reason is deaf, and conscience has taken refuge in a casemate no missile of truth can penetrate. In the closing scene of this great drama it only remains for me to utter my lament.

Contemning all lawful authority and the voice of the people, the eight commissioners—who have achieved for themselves an immortality of infamy—have done their work as basely as Joab when he smote Amasa in the fifth rib while holding him by the beard to kiss him. The member of the commission from Massachusetts may in his self-complacency regard himself a martyr to democratic abuse. We complain of him not without cause. We had that trust in his integrity that begat the conviction that when confronted with the choice of a party triumph or the vindication of the truth he would face the responsibility and espouse the latter. I know not what transpired in the secret deliberations of the committee that framed the bill, but I know that he invited our confidence when he stood on this floor and with eloquent pathos appealed to us to embrace it. He had heretofore denounced the Louisiana returning board as a monstrous iniquity.

He knew that the dread of the democracy was the assumption that the President of the Senate was authorized to do the counting, looking no further than the face of the certificates. Did he then invite us to accept the commission with the covert purpose of dwarfing this great usurpation to the narrow practice of a common-pleas court? Did he believe that we and the country contemplated the solecism, the sublime farce of erecting a solemn tribunal of five commoners, five reverend Senators, and five grave judges to go through the highly intellectual process of opening the certificates, sorting out those for Hayes, and casting up the figures? That was what the President of the Senate, with less parade and greater facility, could do.

If such were his construction of the duties and powers of the commission when he stood on this floor and delivered his apostrophe to the triumphs of peace, "justice, and righteousness;" if it were not in fact a false pretense, hollow and hypocritical, it was on all-fours with the morality of the injunction of Peggy Lob to her boy Paul:

Mind thy kittychism child, and reverence old age. Never steal, specially when any one be in the way. Read your Bible, and talk like a pious un. Peoples goes by your words more than your actions. If you wants what is not your own try and do without it, and if you cannot do without it, take it by insinivation, not bluster. They as swindles does more and risks less than they as robs.

The gentleman attempted to parry the force of the criticism of the gentleman from New York [Mr. HEWITT] by likening himself to one of Massachusetts' great Senators. It suggested to my mind a contrast. When, in the far-off time, the archaeologist shall wander amid the tombs and monuments of the Senators of the Old Bay State, as he pauses before that of her Webster he may read in letters of living light the words, "Liberty and union, one and inseparable, now and forever." On her Choate's he may read, "A thing that's most uncommon: an honest, learned, modest, reasonable man." But when he pauses before that which shall mark the resting-place of her first Senator chosen in the second century of the nation, he will exclaim, "How the mighty have fallen," as he calls to mind the words, "Ordered, That evidence (of fraud) be not received." What an epitaph for the successor of Webster, Choate, and Sumner. His monumental column should be surmounted with the representation of the stealthy fox devouring the Louisiana pelican.

Akin to his immodest comparison is the impudent assumption that he, as a member of the commission, vindicated the doctrine of State rights. What are State rights? This, essence and soul, is the right of the people of a State to erect and control their own local governments. Has this right been permitted to Louisiana and South Carolina since the war? The governments there were bold, bald usurpations, propped up and sustained by Federal bayonets against the will and right of the people. When it was proposed to show what was the State government he said, "Ordered, That no evidence be received;" and with his iron heel planted on the corpse of murdered States, stricken down with the mailed hand of Federal power, he rises to the sublimity of impudence in claiming to be the defender of State rights.

So monstrous and iniquitous are the governments in Louisiana and South Carolina, whose electoral votes the commission have counted, that the President, before the outcry of an indignant nation, has in effect just disowned them. The dreaded Italian hand showed itself from out the ermine of the judiciary in deciding the Florida case. They say:

That it is not competent, under the Constitution and the law, as it existed at the date of the passage of said act, to go into evidence *abundante* on the papers opened by the President of the Senate in the presence of the two Houses to prove that other persons than those regularly certified to by the governor of the State of Florida, in and according to the determination and declaration of their appointment by the board of State canvassers of said State prior to the time required for the performance of their duties, had been appointed electors.

What follows the word "governor" was not necessary to a judgment. But it was necessary to cover the Oregon case. Here then were these sworn judges putting an *addendum* to the case in hand to meet the exigencies of a case not yet submitted. And from that day to this we have witnessed the shameless spectacle of the judge on the bench and the counsel pleading before him, juggling, counseling together in order—

To veer and tack and steer a cause  
Against the weather-gauge of laws.

Take your victory, gentlemen, because I cannot get enough democrats to wrest it from you. Blurred with fraud and cursed with perjury, exult over it if you can. Your exultation is the "*io triumphe*" of treachery. Our exclamation to your honorable commissioners is "*et tu Brute.*"

We will at least have learned from you the philosophy of Pistol's injunction to his wife on leaving for war:

The word is, Pitch and pay;  
Trust none;  
For oaths are straws, men's faiths are wafer cakes,  
And hold-fast, is the only dog, my duck.

The SPEAKER *pro tempore*, (Mr. VANCE, of North Carolina.) The gentleman from South Carolina [Mr. WALLACE] is entitled to the floor for five minutes.

Mr. WALLACE, of South Carolina. I have not often troubled the House since I have been a member of Congress; nor would I do it now had I not heard my State assailed by gentlemen on the other side of the House; had I not heard them either willfully or ignorantly maligning us. Sir, this howl raised over the vote of South Carolina would not have been heard in this House if on the 7th day of November last we had been permitted as freemen to cast the vote of that State.

What was the condition of things there at that time and previously? It was declared by the democratic party of South Carolina that they intended to carry this election. "How can you do it?" was the inquiry; "you have not got the numbers." "We do not care for that; we intend to do it anyhow." And they thought they had done enough to do it, but they failed by a little.

Mr. Speaker, my time is very short. I must content myself with stating a few points as directly as I can. We have never voted since reconstruction more than 148,000 votes. The republican party are 90,000 strong. The democratic party there are not more than 60,000 strong. This year we have voted nearly 183,000 votes, while the republican vote has fallen off nothing. Now, where did it come from? A howl is made over prostrate South Carolina by gentlemen who do not know much about us and perhaps care less. They ought to know that there are at least 20,000 fraudulent votes in the returning box of South Carolina to-day, cast for Tilden and Hampton and against all the delegates from South Carolina as it came to their turn.

Now, why, Mr. Speaker, were soldiers there? Because the citizens were armed. Because we were not permitted as citizens to speak and address our constituents, but a force of armed men and armed mobocracy attended us everywhere, hunted us down by night and day, and prevented a free discussion before the people.

I regret that the gentleman from Eastern Virginia should have made some of the remarks in which he indulged. I remember some charges that have been made against him. Although the honorable gentleman occupies a seat in this House to-day, yet there is great doubt entertained by at least this side of the House, and by many on the other side, whether or not he might not have something to look up at home that might trouble his conscience both by night and by day. I hope, Mr. Speaker, that his charges against South Carolina at least will not blot out the State. Give us a fair chance, a fair expression of opinion, and we will not come here to complain of anything. We are more than able to take care of ourselves. But we cannot take care of ourselves when a portion of our people are encouraged by mobocracy from New York; we cannot take care of ourselves when firebrands are thrown from the other side of the House among our people, and when they are driven to madness and fury in their efforts to suppress a free expression of the opinion of the people of South Carolina.

[Here the hammer fell.]

Mr. RAINEY. Mr. Speaker, the brevity of the time allotted to me through the courtesy of the gentleman from Iowa [Mr. KASSON] to discuss this question will preclude the possibility of my entering into it as elaborately as I should have desired. This is a question in which I naturally feel a deep interest, not only on account of my State being the subject under discussion, but because I represent the constituency that has been unwarrantably assailed on this floor, and which in all the discussions appertaining to the southern question has been entirely ignored by the gentlemen on the other side of the House.

It is a matter of great surprise to me that in discussing this question the gentlemen on the other side of the House should not bear in mind or call to their recollection the fact that the Southern States are not composed now of the same voting element as they were composed of previous to the rebellion; that there has been an accession to the voting population of those States, and that that accession must necessarily have a tendency to wield an influence different from that which was wielded in the Southern States previous to the war. Sir, it is for that reason that I am here to-day; it is for that reason that

I stand here to speak, not in defense of any one man, not in defense of any set of men, but to speak in defense of an enfranchised people, one and all, white and colored, in South Carolina, made to enjoy the immunities and privileges of citizens subsequent to the war.

It has been charged that on account of the military power being in South Carolina it was impossible to have a fair and honest election. That is the argument of the gentlemen on the other side of the House. That was the argument before the commission yesterday. Now, if the whole of the argument as to that submitted here and submitted before the commission be taken for granted, why, sir, South Carolina was the very State in which military power should have been exercised. It has been declared that it had no government at all no government whatever. Why, sir, if it had no government, I ask you then must it not have been in a state of anarchy? And if it was in a state of anarchy, what was more essential than that that anarchy should be subdued by the strong arm of the Government? But I say that while it was not precisely in a state of anarchy, nevertheless it was so near to it in some respects that it was a godsend to my people, who were being assailed and murdered, that the Army did come down and by their presence exercise a moral influence that has saved the lives of many men in South Carolina.

I want now to say a word to the gentleman from Virginia, [Mr. GOODE.] He said that South Carolina had no voice on this floor. I say to the eloquent gentleman that I agree with him to a certain extent that she has no voice here. She has not the voice of the former slaveholder and oppressor, but she has the voice of one of the oppressed race who stands here to vindicate the rights of his people whenever an opportunity is accorded him on this floor. Sir, I am here to speak for South Carolina, and although the face of the gentleman from Virginia [Mr. GOODE] is white and his mind cultivated and he is possessed of all the advantages belonging to his race, yet I stand here to-day and will endeavor to do my duty as one of the Representatives of South Carolina as well as I can, without comparing my record with his, or with that of Calhoun or any of the distinguished citizens of that State whose names he has mentioned here.

Sir, I love South Carolina. I am a native of the State, and, to add force to the emphasis of the argument I am trying to educe, I will take no background upon any question designed for the weal of South Carolina. I would not do anything that I believe to be wrong. I would not countenance fraud or intimidation on the part of my own people to deprive any one of their rights who was opposed to them.

But when I know we are assailed and oppressed and that attempts are made every day to drive them again under the heel of the oppressor, I can only raise my voice, and I would do it if it were the last time I ever did it, in defense of my rights and in the interests of my oppressed people.

I want to say to the democracy: Gentlemen, the colored people of the South do not hate you; they do not hate the democratic party, but I tell you that we always find our principal oppressors in that party. Therefore, we tremble with fear and apprehension when we are informed that a democrat is about to regain power, and it is for that reason that we want the State of South Carolina to-day to have a republican as governor, and rejoice that now, under the just decision rendered by the commission, we shall have a republican for President of the United States. [Applause.]

Mr. SOUTHARD. Mr. Speaker, an eminent political writer of England has said:

As conquest may be called a foreign usurpation, so usurpation is a kind of domestic conquest, with this difference: that an usurper can never have right on his side, it being no usurpation but where one has got into the possession of what another has a right to.

The man whom the people have designated as their choice through the methods of the Constitution and laws has rightful claim to the presidential office. If the reckless, partisan judgment of the majority of the electoral commission shall override that choice and place another in the office, whatever may be the practical effect, it is none the less a real usurpation, though it be surrounded with the barren forms of law. Its solemnities cannot conceal the fraud or right the wrong. A *de facto* President he may become who is thus installed, but the President *de jure* he can never be.

This "domestic conquest" was begun in South Carolina, to end, I fear, in the conquest of the whole nation. The President of the United States ordered the military there pending the election—this on pretense of insurrection or domestic violence beyond the control of the State. If that be true, the people were not free to exercise the right of voting, and ought not to decide the presidential succession. But if such were not the condition of the State, the very presence of national troops was without warrant of law and in flagrant violation of the essential principles of our elective system. The very essence of republican government is the freedom of the ballot. If the Executive of this nation may wield the Army and Navy at his will for the purpose of controlling elections, he may perpetuate the succession of his party, and republicanism becomes a mockery. It is a notorious fact that there was no such domestic violence in South Carolina as authorized the use of Federal troops, and their presence must be accounted for on some other hypothesis.

The conditions upon which a call might rightfully be made upon the President for aid did not exist. The Legislature of the State made no demand for troops. The governor did not even attempt to convene the Legislature or give reasons why it could not be done.

There was not the slightest obstacle however to its peaceful assemblage. The courts of the State, too, were all open and their process was unobstructed. The local authorities were amply able to deal with all violations of the law and to maintain the peace and good order of society.

Yet in the face of all this the President issued his proclamation declaring the State in insurrection.

All available forces were immediately ordered to proceed to the State, and it was made one common camping-ground for Federal troops till after the election.

Who will say the people were free to exercise the elective franchise under these circumstances, or that the vote of the State ought to decide the presidential issue?

The supreme executive—

Says Locke—

who has a double trust put in him, both to have a part in the legislative and supreme execution of the law, acts against both when he goes about to set up his own arbitrary will as the law of society. He acts also *contrary to his trust* when he either employs the force, treasure, and officers of the society to corrupt the representatives, and gain them to his purposes, or openly pre-engages the electors, and prescribes to their choice such whom he has by solicitations, threats, promises, or otherwise won to his designs, and employs them to bring in such who have promised beforehand what to vote and what to enact. Thus to regulate candidates and electors, and new-model the ways of election, what is it but to cut up the government by the roots, and poison the very fountain of public security!

The fitting type of all these baleful influences is found in the instrumentalities employed in the late elections in South Carolina and other Southern States—culminating as they have in rascally returning boards and false certifications of presidential electors, which, strange to say, have received the approval of the majority of the electoral commission which was created by Congress to determine the right. They have shut their eyes to the truth and lent their high functions to the consummation of a great wrong against popular government. This is the conviction of the hour, as it will be the verdict of impartial history. Fraud vitiates everything, in the language of the law, and these decisions will prove no exception in the judgment of all right-thinking men. That they should not be permitted to become of binding effect all should agree, if it can be avoided by any lawful means. Faith to them is faith to fraud and usurpation, but it is faithless to the rights and liberties of the people. To the Constitution and laws we owe allegiance, and they should be employed to overthrow what is clearly ruinous to free government. But we are told that we must accept these decisions as final, for just beyond lies anarchy. No one should court anarchy, but it does not follow that we should be swift to sanction palpable usurpation, which is little better. I can see little difference between usurpation before the 4th of March and usurpation after that date. I would avoid both, and would exhaust the last moment and the last expedient for this purpose.

It has been said in the progress of these discussions by the gentleman from Kentucky [Mr. BROWN] that we should

Rather bear those ills we have  
Than fly to others that we know not of!

I answer, this breathes not the spirit of heroic deeds or patriotic achievements. Listen to the continuance of the soliloquy:

Thus conscience does make cowards of us all;  
And thus the native hue of resolution  
Is sicklied o'er with the pale cast of thought;  
And enterprises of great pith and moment,  
With this regard, their currents turn awry,  
And lose the name of action.

"Enterprises of great pith and moment" may extricate from the difficulty far short of the dire results of either anarchy or usurpation. Seek the remedy; this is our duty. The bill which has just passed this House providing for a new election, in the event the count shall not be completed in the allotted time, would avoid discord and anarchy if it should become a law. It means peace and justice. It carries the question back in that event to the people, and provides, in the mean time, for a rightful succession of the Presidency. I can imagine scarcely anything worse than the lesson of legalized fraud. It is most demoralizing on the popular mind, and will sap the foundations of faith in the future of the Government. What! Shall the American people be taught that there is no power in their Government to resist open and unmistakable fraud in the choice of the Chief Executive? Can they reasonably entertain hope for the preservation of their liberties or the continuance of peace if this outrage is to receive final sanction? Sooner or later, sir, it must lead to revolution or despotism. Like him who has been despoiled of his property, the people should "appeal to the law for justice," but if there be no law, no court to appeal to, wherein justice may be had, they will ultimately be compelled to appeal to a higher arbitrament and to struggle on "till they have recovered the native right of their ancestors," which is to install into office the President whom they have chosen by their ballots.

Mr. GOODIN. Mr. Speaker, the end of the electoral count draws nigh, and it is not difficult to predict the character of the farce with which the performances will be closed. This is no time for idle whimpers or repinings. What ought to have been done is one thing; what is best now to be done is quite another. I voted for the bill creating the commission because I believed it to be equitable,

fair, just; because in it I saw, as I thought, the only hope of averting great national commotion if not bloodshed. With that vote I am content; under similar circumstances to those surrounding us at the time of the passage of the bill my vote would be recorded the same to-day. I can discover no trick, no snare in the enactment of that law, as others claim now to see them.

That the commission disappointed the democracy in the determination of the grave questions submitted is apparent; that the decisions thus far made will meet the approval of fair-minded republicans throughout the country I do not believe. We will soon be called upon to witness the humiliating spectacle of seeing counted in as President and Vice-President men who as candidates for those positions were overwhelmingly defeated at the polls. The high commission has so decreed, and so it will be. Let the final result be reached as early as possible. Honor and enlightened statesmanship alike demand that no unnecessary obstruction be thrown in the way of a further count. If the tribunal acted unwisely, if it acted contrary to justice, contrary to the reasonable expectations of the country, it unquestionably had the power to do so. We invested it with large discretion, with the fullest judicial power. Like every other body quasi-judicial, or wholly so, the determination of the extent of its jurisdiction rested with it, and its adjudications can be overturned, according to the act creating it, only by a "concurrence of the two Houses."

We may censure, we may remonstrate, we may be buried in regrets, but we cannot undo the work of the commission, except it should be by meansavoring strongly of revolution. This we cannot afford. The people of all parties demanded a peaceful adjustment of the vexed question; the entire business interests of the country were almost boisterous in appeals for some pacific settlement. The electoral bill was hailed with shouts of rejoicing everywhere. Many hearts are bowed in disappointment at the partisan decisions; many feel that our country is disgraced in her most eminent public servants; that the ermine of the highest court of judicature in the land is henceforth polluted beyond the hope of cleansing; that the method of making Presidents by returning boards will hereafter supplant the old-fashioned way of selection; that fraud and perjury will rise in market and ever command a premium over honesty and truth; that revolution, anarchy, forcible resistance to treachery and usurpation, if applied now, might serve to mitigate, if not to relieve us, from some of our anticipated evils in the future.

The picture drawn is a sad one; but, however unsightly, the remedy to be applied, if it could serve to divert our attention, would bring us to gaze upon another more horrible in its make-up.

Mr. Speaker, in this hour of conflict of opinion, of frenzy, I welcome reason and struggle to quench the rising sparks of passion. Anger and judgment bear little affinity to each other. He who counsels with rage in this trying hour will, when the quiet of reflection comes upon him, regret the ill-timed counselor which led him astray. My friends, be not too ready to despair. Many of you, I know, according to the laws of human longevity are close upon retirement from the theater of life. A few years—even four of them—may seem a long time. But in the life of a republic it is inconsiderable. The hopes and aspirations of the American people are not to be quenched by a single act of fraud upon their rights, nor by a succession of them. The people are forbearing and long-suffering. A submission to the forms of law is a trait which has been long fostered and is strong in them. Peaceful methods are far more congenial than desperate expedients, and I have an abiding conviction that however earnest their protestations against the means by which their expressed will has been thwarted, against the palpable frauds committed, against the blind partyism which has brought the blush of shame to the honest cheek, and well-nigh banished respect for the Federal judiciary, they will not countenance violence or factious delay in preventing a declaration of the result of this most unhappy question.

Then, sir, let us nourish our patriotism; let us preserve untarnished our honor; let us not be tempted to sacrifice statesmanship upon the altar of passion, and from defeat before a partisan tribunal, which to serve the ends of party announces itself absolutely powerless to hear evidence of fraud and perjury, appeal once more to that innate sense of right and fair-dealing so strongly entrenched in the popular heart, for the reversal of this most unrighteous decision.

Thomas Benton once said:

The troubles of the country come from uneasy politicians; its safety from the tranquil masses.

After the first flush of indignation at the outrage committed, the people will listen to the oft-told history of peridious returning boards, and the solemn decrees of this remarkable commission, which sought to affirm their unjust doings, thus transferring the well-merited odium of the former to the latter, and listening, a rebuke will come to the perpetrators of these wrongs, so significant, so overwhelming, that even their impious heads will hang, if not in shame, in sorrow and in anguish at their condemnation.

Mr. Speaker, I envy not him who through subversion of law and a disregard of the will of the people succeeds to power. While the masses will make no resistance to his performance of the functions of the presidential office, he will ever be looked upon with distrust, and no wisdom of administration can atone for the manner in which the position was obtained. Power wrongfully secured will torment its possessor to the end.

Mr. Speaker, in the latter stages of ancient Rome, Cæsar relied for

support upon an armed force devoted to his interests. Pompey sought popular favor through popular laws, while the opulent Crassus endeavored to secure it by making dinners, and feeding the rabble at his own expense, expending in nine months' time ten millions of dollars. The dazzling splendor of Cæsar for a time failed as against the wholesome laws made and promised by Pompey, while the sumptuous dinners of Crassus, though devoured with a relish, would not bind the populace to him. So, sir, will it be with Rutherford B. Hayes, ushered into official life out of the womb of fraudulent returning boards. Whether he may adopt the expedients of a Cæsar, Pompey, or Crassus, he will fail to command that confidence, that respect, that esteem due from the people toward him who by their suffrages is chosen to the most exalted station within their gift.

Courage and patience then! Courage to do right and patience to bide the good time when the verdict upon legalized wrong shall be given; for I believe as sure as I believe in the existence of God that the victory which my republican friends now foresee so clearly will be turned into a defeat so stunning, so bewildering, that they themselves will feel like cursing the day and the forces which gave it to them.

Mr. COCHRANE. I yield one minute of my time to the gentleman from New York, [Mr. COX.]

Mr. COX. I am allowed one minute to reply to the honorable gentleman from Ohio, [Mr. LAWRENCE,] who impugned the election in New York City and desired to go below it for some purpose. A committee of this House has been in session in New York City and that committee examined into that election. No man can say that that election was not a fair one, and upon the authority of the testimony of Federal officers taken by that committee, which I have here, I can verify my statement anywhere inside or outside of the House.

The gentleman from Ohio says that we have no right to go behind the returns, but he charged some kind of fraud in the city of New York. Sir, I undertake to say that out of 183,000 votes cast there there were not thirty bad votes, and the city of New York is in no hurry to inaugurate anybody elected in a different way.

Mr. COCHRANE. Mr. Speaker, we have again heard from the majority of the commission, and it becomes the duty of the House to determine whether the decision of that majority shall be the decision of this House or whether this House shall repudiate it.

Gentlemen upon the other side of the House have seen fit to make statements about what they know as to the condition of affairs in South Carolina. Several members of the committee who went to South Carolina, of which committee I had the honor to be a member, have stood in their places on this floor and have declared that the facts alleged by the gentleman from Virginia [Mr. GOODE] and others who have addressed the House are not founded on fact and are totally and wholly untrue. Now, sir, that is the very matter that we proposed to inquire into before the joint commission. If these gentlemen were prepared to show by competent and satisfactory evidence that a state of violence and lawlessness was not engendered by the introduction of Federal bayonets into South Carolina, why did they not go before the commission and say, "Let us have an inquiry into this matter; let us hear the truth; let the commission pass upon the evidence?"

O, no, the gentleman from Massachusetts [Mr. BANKS] and the gentleman from Ohio [Mr. LAWRENCE] who was one of the objectors were both silent when the objectors on the part of the House proposed to show—what? We proposed to show that before the date of the election the State of South Carolina was peopled with Federal troops; we proposed to prove that Federal soldiers, with fixed bayonets, surrounded the polls at the various voting-precincts throughout that State; we proposed to show that those Federal soldiers, aided and abetted by the State militia, by an army of United States marshals, and by another army of deputy sheriffs, the creatures and appointees of C. C. Bowen, one of the republican electors, stood at the polls and in defiance of the rights of the people of South Carolina did prevent white and colored men from voting the democratic ticket; that it was by such means as these that in the county of Charleston, instead of a majority of 2,000 votes, they rolled up a majority of 7,000 votes; that, if the 5,000 votes to which they were not entitled were excluded, there would not have been upon the democratic ticket a single candidate for elector with less than a majority of 4,000 votes.

That was the proposition before this commission. It will not do for the gentleman from Ohio, [Mr. LAWRENCE,] and the gentleman from Massachusetts, [Mr. BANKS,] and the gentleman from New York [Mr. LAPHAM] to stand up in this House, as they have done to-day, and say to their fellow-members and to the American people that the facts we allege are not true. You dare not allow us to prove them; that is the why we complain. Your eight partisan commissioners knew full well that if we had the opportunity we would have shown a state of facts to exist there which would have necessitated the throwing out of the electoral vote of South Carolina. Yet they come into this House and in the report which they submit they say:

So far as this commission can take notice of the presence of soldiers of the United States in the State of South Carolina during the election, it appears that they were placed there by the President of the United States to suppress insurrection, at the request of the proper authorities of the State.

"So far as this commission can take notice." Why, sir, the commission would not allow the production of any testimony. What knowledge, therefore, could it have had as to the facts? Mark you, we offered to prove that the President of the United States, in sending

these Federal troops into the State of South Carolina, violated both the Constitution and the law. We offered to prove, we have the proof in our hands to-day and can furnish it upon an hour's notice, that General Ruger, the officer in command of the troops in South Carolina, on the 16th day of October, 1876, telegraphed to the President of the United States that all was quiet, that he did not need any more troops. "If I need more troops, I will send you a dispatch telling you I need them."

Yet upon the 17th of October, the very next day, in the face of that official dispatch from General Ruger, the President of the United States issued his proclamation, declaring the people of that State in insurrection and sending down there all the soldiers he could gather from Maine to Fortress Monroe.

"In accordance with law," says the commission; "so far as we can notice." Sir, we offered to prove that the Legislature of the State of South Carolina was never convened by the governor, that the matter of the intervention of Federal troops on the ground of the existence of an insurrection never was submitted to the Legislature, although it could have readily been convened at the time. "So far as the commission can know anything about it." Why, sir, it was a violation of law, a violation of the Constitution of the United States from beginning to end. It was a deliberate and vile conspiracy between Government officials at Washington and Chamberlain and his hirelings in the State of South Carolina to wrest from that people the power which they would otherwise have exercised at the ballot-box. We offered to prove all these facts; here are the offers of record.

[Here the hammer fell.]

The SPEAKER *pro tempore*, (Mr. VANCE, of North Carolina.) The time of the gentleman has expired.

Mr. HOGE. The short time that I have to address the House upon this subject I propose to devote mostly to showing the necessity for the use of United States troops in the State of South Carolina during the recent election. The better to show to this House the necessity for troops I will describe one of our political meetings, which was a fair sample of all that I attended while addressing the people of South Carolina on behalf of the nominees of the republican party.

I attended a public meeting called by the republican party at Abbeville Court House. I attended it in company with Governor Chamberlain and the superintendent of education, Mr. Jillson. We were waited on by a committee of democrats on our arrival at Abbeville Court House and told that they desired to divide the time with us. Their request amounted to a demand, and upon consultation we felt that we were obliged to consent to a division of the time with the democracy.

The next morning the meeting assembled at ten o'clock, and when we went to take possession of the stand which had been erected by the republican party and to address the people of that county, we found in front of the stand some three thousand white people, members of the democratic party, every man of whom was armed with from one to three revolvers. After we had taken our place upon the stand I heard, what was very familiar to my ears, the old rebel yell; I looked up, and saw approaching the stand the head of a column of cavalry. They came up and formed around the stand, to the number of sixteen hundred, inclosing the entire audience, consisting of about three thousand white men, on foot, who were democrats, about twelve hundred or fifteen hundred colored men, and perhaps a hundred white men belonging to the republican party.

After encircling us in a hollow square, which I have no doubt many of my old friends here who have been soldiers have formed more than once to protect themselves upon the battle-field, but that was the first time that I found I had been placed in a hollow square formed by the enemy—after surrounding us, they detailed twelve men and placed them on the stand immediately behind the speakers. I noticed that the man who stood behind me was armed with four revolvers, and it seemed to me that they were about as long as my arm. [Laughter.] These men were all pretty well filled with whisky, and they made use of a good deal of plain talk about killing radicals, republicans, carpet-baggers, and so on.

Governor Chamberlain first addressed the meeting. He was followed by a gentleman from Abbeville County, who, having all this protection behind his back, pointed his finger in Governor Chamberlain's face and called him a thief and a liar. During that meeting men came upon the stand from the democratic party in the audience and called upon General McGowan and other leading democrats to protect Governor Chamberlain's life, because the democrats intended to kill him.

The democrats started out with the doctrine that they intended to carry South Carolina; peaceably if they could, but that they intended to carry it; and in every meeting that I attended, every place that I went the people who surrounded me were from five to ten democrats to one republican, and every man of them armed to the teeth. That was the bull-doing process adopted by the democratic party in South Carolina to carry the State for Tilden.

Nobody dreamed that South Carolina could ever be carried for the democratic party on an honest vote; everybody knew it could not be done; hence they resorted to that plan. They sent to Mississippi for an ex-major-general of the confederate army; they had him there at the democratic State convention; and he held a private meeting in the secret halls of the State-house for the purpose of instructing the democrats of South Carolina how the democrats had carried Mis-

issippi, telling them that if they in South Carolina would adopt the same plan they could carry that State. They did adopt it; and it was only in consequence of a miscalculation of 1,200 or 1,500 votes—a mere accident—that they did not do it.

The democratic investigating committee, of which the distinguished gentleman from Pennsylvania [Mr. COCHRANE] who has just addressed the House was a member, came there to investigate the facts; and I would to God that we had time for the House and the country to hear all of that testimony. In that case my democratic friends would have heard some testimony that would have brought the blush of shame to their faces to think that they belonged to a party that would tolerate any such system of outrage and violence as was practiced upon the republicans in my State.

The gentleman says there is no representation here from South Carolina. Well, it is true that we have not Calhoun; but I represent the old district that was once represented by him. [Laughter on the democratic side.] I do not know how much he weighed; but I know that I come here with nearly 4,000 republican majority behind me, after running against the ablest man in the State of South Carolina to-day—General McGowan; and I did not have to come here like the distinguished gentleman on the other side [Mr. GOODE] and be voted into my seat by a vote of the House. [Laughter.] I do not pretend to compare myself with the distinguished statesman of Carolina; but I do say that I equal him in loyalty to the Constitution and to the Republic. In that respect I equal him as I equal any other man who represents any one of the Southern States on this floor.

I thank God that this commission has arrived at such satisfactory conclusions and that we are to have a peaceable inauguration of a President, not an appeal again to arms. I tell you, gentlemen of this House, the men on both sides who fought the battles of the last war had as much fighting as they wanted, and they are not ready for a fight. They want this matter settled here and now. They want Rutherford B. Hayes, who has the honest majority of the people of this country, installed into office on the 4th of March; and it is going to be done.

I have stated the condition of South Carolina during the last campaign. When the soldiers came there they were called upon by republicans to defend them in the right the Constitution gave them to vote for the people of their choice. That right was guaranteed to republicans and democrats alike, for both parties called upon the soldiers to protect them. The white men in the upper portion of the State were bull-doing the negroes; and it was claimed by the democracy that the negroes in the lower portion of the State were bull-doing the democrats. [Laughter.] I do not believe much of that, but I give it for what it is worth. I do know and state the fact that troops were called upon by both parties to protect both parties; and, in my judgment, their presence saved bloodshed in the State.

[Here the hammer fell.]

Mr. TEESE. Mr. Speaker, the time for argument has passed. I will not presume at this late time to travel the beaten track of reviewing the proceedings of the commission. I only rise to enter my protest against its decisions and to express my regret that a blow, which I fear will in the near future be fatal to our form of Government, should have been dealt partly by Jersey men, two of whom sat upon the commission.

Search the annals of the world and no more unjust decision can be found than that of this commission in deciding that Hayes was elected President of the United States, for that is the sum and substance of their finding.

It seems to me that some of the objections of the commission to giving consideration to what are known facts are not worthy even of the name of technicalities.

What does the bill constituting this tribunal contemplate it should do? The duty of its members is comprised in the oath each one took, as follows:

I, \_\_\_\_\_, do solemnly swear (or affirm, as the case may be) that I will impartially examine and consider all questions submitted to the commission of which I am a member, and a true judgment given thereon, agreeably to the Constitution and the laws: so help me God.

Now how was this oath "to impartially examine and consider" observed? I will read from the record of the proceedings of the commission, as a specimen only, some of the offers to prove that the returns and certificates from the State of Louisiana were illegal, fraudulent, and void. I read from the RECORD of Wednesday, February 21.

Mr. Commissioner ABBOTT offered the following as a substitute:  
"Resolved, That evidence will be received to show that the returning board of Louisiana, at the time of canvassing and compiling the vote of that State at the last election in that State, was not legally constituted under the law establishing it, in this: that it was composed of four persons all of one political party, instead of five persons of different political parties, as required by the law establishing said board."

The question being on the adoption of the substitute, it was decided in the negative:

YEAS ..... 7  
NAYS ..... 8

Mr. Commissioner ABBOTT offered the following as a substitute:  
"Resolved, That testimony tending to show that the so-called returning board of Louisiana had no jurisdiction to canvass the votes for electors for President and Vice-President is admissible."

The question being on the adoption of the substitute, it was determined in the negative:

YEAS ..... 7  
NAYS ..... 8

Mr. Commissioner ABBOTT offered the following as a substitute:  
*Resolved*, That evidence is admissible that the statements and affidavits purporting to have been made and forwarded to said returning board in pursuance of the provisions of section 26 of the election law of 1872, alleging riot, tumult, intimidation, and violence at or near certain polls and in certain parishes, were falsely fabricated and forged by certain disreputable persons under the direction and with the knowledge of said returning board, and that said returning board, knowing said statements and affidavits to be false and forged, and that none of the said statements or affidavits were made in the manner or form or within the time required by law, did knowingly, willfully, and fraudulently fail and refuse to canvass or compile more than ten thousand votes lawfully cast, as is shown by the statements of votes of the commissioners of election."

The question being on the adoption of the substitute, it was decided in the negative:

Yeas ..... 7  
 Nays ..... 8

Mr. Commissioner HUNTON offered the following as a substitute:  
*Resolved*, That evidence be received to prove that the votes cast and given at said election on the 7th of November last for the election of electors, as shown by the returns made by the commissioners of election from the several polls or voting-places in said State, have never been compiled or canvassed, and that the said returning board never even pretended to compile or canvass the returns made by said commissioners of election, but that the said returning board only pretended to canvass the returns made by said supervisors.

The question being on the adoption of the substitute, it was decided in the negative:

Yeas ..... 7  
 Nays ..... 8

Mr. Commissioner BAYARD offered the following as a substitute:  
*Resolved*, That no person holding an office of trust or profit under the United States is eligible to be appointed an elector, and that this commission will receive evidence tending to prove such ineligibility as offered by counsel for objectors to certificates 1 and 3.

The question being on the adoption of the substitute, it was decided in the negative:

Yeas ..... 8  
 Nays ..... 7

Sir, as it has been well said, this commission not only refused to go behind the certificates, (always excepting the Oregon certificate,) but they refused to go to them; they refused to give them any examination whatsoever. The result is that a man is counted in for President whom no man of any party claims was elected by the people. No one on this floor or off of it pretends that the Hayes electors were elected by the people. The republicans claim that if certain persons had voted, who ought to have voted but did not, then Hayes would have been elected, and so Madison Wells and his fellows were justified in throwing out enough democratic votes to give the election in Louisiana to Hayes. This is the only claim I have heard why the Hayes electors should be declared to have been elected. Sir, the infamy of such a conclusion from such premises is best proved by the simple statement of the matter.

Sir, I voted for this commission, not having very much faith in it, but believing that it might at least conduce to the peace and quiet of the country. I believed, and still believe, that if the President of the Senate had attempted to count the votes civil war and anarchy would have been the result. I hope that the peace of the country may not be disturbed, notwithstanding the people have been so cruelly cheated; and I believe there is patriotism enough in the people to bide their time and right their wrongs at the ballot-box. But, sir, as the stream cannot rise higher than its source, so we cannot expect that the mass of the people will be purer or better than their trusted rulers; and if the very fountains of justice are impure, and the representatives of the people and of the States are so blinded by prejudice or party interest as not even to listen to the appeals of right and truth, then may we well say, God save the Republic!

The SPEAKER. The time allowed for debate has expired.

Mr. WALLING. I ask that the pending resolution be read.

The Clerk read as follows:  
*Resolved*, That the objections to the decision of the electoral commission upon the electoral vote of South Carolina be sustained by the House, and that said votes be not counted.

Mr. WALLING. I move to amend by adding to the resolution these words: "in conformity with the decision of said commission."

Mr. JONES. I offer the following as a substitute for both the pending propositions:

*Resolved*, That the decision of the electoral commission upon the electoral vote of South Carolina be not concurred in by this House.

The SPEAKER. The question will first be taken on the substitute.

Mr. SPRINGER. I rise to a point of order. Do not the rules of the House require that the text of the original proposition should first be perfected before a question is taken on a substitute? I submit that the first question is upon the amendment offered by the gentleman from Ohio, [Mr. WALLING.]

The SPEAKER. The first vote will be taken on the amendment to the original text as moved by the gentleman from Ohio.

Mr. O'BRIEN. Let the proposition be read as it will be if the amendment is adopted.

The resolution and the proposed amendment were read.  
 Mr. WOOD, of New York. I demand the previous question on the original resolution.

The SPEAKER. The immediate question is on the amendment of the gentleman from Ohio.

Mr. WOOD, of New York. Then I demand the previous question

on the amendment to the resolution and the substitute, and on the original resolution itself.

Mr. HALE. Is there any necessity to call the previous question on this proposition? I do not object of course to the gentleman from New York doing all he can to bring the House to a vote on the pending proposition, but it seems to me that amendment is not in order, but that the vote, on the contrary, should be put at once upon the pending resolution, which we have been debating for two hours. The law provides that after the discussion shall take place the question shall then be put, and under the law it seems to me no amendment or anything else can be in order except the vote on the pending resolution.

We have been debating a certain question for two hours in ten-minute speeches, and I make the point of order the question must be first put under the law and that we need not go through the round-about process of ordering legislation. I make the point of order under the law the question must be put at once after the two hours' debate.

The SPEAKER. The demand for the previous question is usually allowed for the purpose of closing debate. Therefore a substitute has been entertained on several occasions during the progress of this electoral count.

Mr. HALE. But they were always offered at the beginning of the debate, so that the debate proceeded upon the resolution and substitute. Now that part of the work of this transaction has been completed. We have debated the pending resolution and the only resolution pending for two hours. This side of the House did not see fit to offer any substitute.

The SPEAKER. The Chair thinks it is competent at the end of the debate to move to amend the pending resolution.

Mr. HALE. Let me ask the Chair whether that may not render nugatory the whole proceeding, because, if these amendments be voted down, additional amendments might be offered one after another.

The SPEAKER. It is not for the Chair to suggest the remedy. The experience of the gentleman from Maine will tell him the remedy.

Mr. HALE. I think the remedy is in the law, which orders that the question shall then be put.

The SPEAKER. This proposition is amendable, as has been frequently ruled heretofore during the progress of this count.

Mr. CASWELL. I wish to call the attention of the Chair to the language of the law which provides that the main question shall then be put.

The SPEAKER. The Chair has heretofore ruled that the main question in that law did cover amendments in two degrees when offered.

Mr. CASWELL. Was not the resolution under discussion for two hours?

The SPEAKER. The Chair ruled on that point that the main question as used in the law should be understood in a parliamentary sense to embrace the original proposition, the amendment, and then the amendment to the amendment.

Mr. CASWELL. An amendment submitted afterward?

The SPEAKER. In the nature of a substitute. The difficulty with the majority is that they did not have the foresight to see and prevent it.

Mr. SPRINGER. Permit me to say that the ruling of the Chair is evidently correct. If gentlemen will refer to the proceedings in the Florida case they will find there were several amendments offered and voted on in their order, and then a motion to reconsider carried, and another proposition finally adopted.

The SPEAKER. The Chair is very clear on that point. The law says the main question shall then be taken.

Mr. O'BRIEN. The purpose of the law is as expressed in the text: the question shall now be put without further debate, merely to exclude further debate.

The previous question was seconded on the resolution and pending amendments.

The question recurred on ordering the main question. The committee divided; and there were—ayes 145, noes 60.

Mr. WALLING demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided it the affirmative—yeas 190, nays 73, not voting 27; as follows:

YEAS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Blount, Blount, Bradley, John Young Brown, William R. Brown, Horatio G. Burchard, Samuel D. Burchard, Burleigh, Butt, Cabell, Campbell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Conger, Crapo, Crouse, Culberson, Cutler, Danford, Darrall, Davis, Davy, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Faulkner, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Goode, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hartridge, Hartzell, Hatcher, Hathorn, Hays, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hutton, Hurlbut, Hyman, Jenks, Frank Jones, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, Franklin Landers, George M. Landers, Lawrence, Leavenworth, Le Moyne, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McDill, McFarland, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Odell, Oliver, O'Neill, Packer, Page, Payne, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Ralney, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Saylor, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Southard, Stevenson, Stowell, Strait, Tarbox, Teese, Thomas, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Wait, Waldron, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Walling, Ward, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting,

Wilke, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, Woodworth, Yeates, and Young—190.

YAYS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Blackburn, Bliss, Boone, Bradford, Bright, John H. Caldwell, William P. Caldwell, Cate, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Dibrell, Douglas, Finley, Forney, Franklin, Glover, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Henkle, Hooker, Humphreys, Hard, Thomas L. Jones, Knott, Lane, Luttrell, Lynde, Mackey, Maish, McMahon, Meade, Mills, Money, Morrison Mutchler, O'Brien, John F. Phillips, Poppleton, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Scales, Schumaker, Sheakley, Slemmons, William E. Smith, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Whitthorne, Wigginton, and Jere N. Williams—73.

NOT VOTING—Messrs. Abbott, Anderson, Bass, Backner, Carr, Cox, Durand, Ellis, Field, Fuller, Gause, Gibson, Haymond, Goldsmith W. Hewitt, King, Lapham, Lewis, Metcalfe, Milliken, Piper, Purman, Savage, Stephens, Swann, Walsh, Warner, and Wheeler—27.

So the main question was ordered.

The Clerk proceeded to read the list of names.

Mr. RUSK. I ask that by unanimous consent the reading of the names be dispensed with.

Mr. FRANKLIN. I object.

When the names of those voting in the affirmative had been read, Mr. WALLING said: I understand the objection to dispense with the reading of the names has been withdrawn by the gentleman who made it.

The SPEAKER. It has not.

The names of those voting in the negative were read, and the result of the vote was then announced as above recorded.

Mr. WALLING. I move to reconsider the vote by which the House ordered the main question.

Mr. WOOD, of New York. It is evident, Mr. Speaker, that there is every indication of a determination upon both sides of the House to have an all-night session. I desire to avoid that if possible.

The SPEAKER. Debate is not in order.

Mr. WOOD, of New York. I ask unanimous consent to make a proposition. I propose that all dilatory motions and amendments be withdrawn and that we proceed to vote on the original resolution as amended, and very properly so, by the gentleman from Ohio, [Mr. WALLING;] that we then ask the Senate to meet us, and proceed with the count as far as Vermont.

Mr. SPRINGER. As far as the next State objected to.

Mr. WOOD, of New York. Which I believe will be Vermont; and that we then take a recess till ten o'clock to-morrow. I make that proposition, understanding that our friends on this side of the House are willing to consent to it.

Mr. O'BRIEN. We are willing to accept the proposition on this side of the House.

Objection was made.

The SPEAKER. The gentleman from Ohio [Mr. WALLING] moves to reconsider the vote ordering the main question.

Mr. WALLING. There was an understanding that by an agreement of the House, when the next State should be reached to which objection is made, we should then take a recess until ten o'clock to-morrow. On that understanding I withdraw the motion to reconsider.

The SPEAKER. There was objection to that understanding; and the Chair was proceeding in the ordinary way to state the question before the House.

Mr. WALLING. I understood the objection was withdrawn.

Mr. BANNING. There is no objection to the proposition of the gentleman from New York.

The SPEAKER. The Chair would like to hear the proposition again.

Mr. WOOD, of New York. If the House will bear with me for a minute I will again state my proposition. It is this: That all these propositions and amendments, which although probably pertinent to the original proposition are still dilatory in their character, and certainly in their effect, be withdrawn so that the House may be brought to vote directly on the resolution to non-concur in the decision of the electoral commission.

The SPEAKER. The Chair thinks that the motions to which the gentleman refers are legitimate motions, or he would not have entertained them.

Mr. WOOD, of New York. I understand that perfectly. Then I propose that we shall ask the Senate to join us and proceed with the count, and that when we reach the first State objected to, and the two Houses separate on the objection, the House shall then take a recess.

Mr. KELLEY. It being understood that the next State to be objected to is Vermont. If that be understood, we on this side of the House agree to that proposition.

Mr. TOWNSEND, of New York. I desire to raise a question of order in regard to the motion of the gentleman from Ohio [Mr. WALLING] to reconsider the vote ordering the main question.

A MEMBER. That motion is withdrawn.

The SPEAKER. The Chair does not understand that motion to be withdrawn.

Mr. WALLING. I will say to the gentlemen on the other side of the House that if they will accept the proposition that when the next State to which objection is made is reached in the count we shall then take a recess, I will withdraw my motion.

Mr. KELLEY. That State being Vermont.

The SPEAKER. The Chair desires to suggest to the House that this is so important an agreement, and which may involve the possibility of future dispute, that any agreement that may be come to should be in writing.

Mr. KELLEY. I understand the proposed agreement to be this: That the two motions now pending shall be withdrawn; that we proceed at once to vote on the main resolution; that we then notify the Senate that the House has acted upon the objections to the vote of South Carolina; that we then proceed with the count of the votes of Tennessee and Texas; and that when an objection arises to the vote of Vermont a recess shall be taken until to-morrow morning at ten o'clock.

The SPEAKER. The Chair desires that the proposition may be put in writing. The Chair may hereafter be called upon to rule upon the agreement, and he does not want to be led into a situation where he may have to decide on matters of fact between gentlemen on the respective sides of the House.

Mr. WALLING. Let the agreement be put in writing.

Mr. O'BRIEN. I would suggest that the proposed agreement be stated from the Chair.

The SPEAKER. The Chair is unwilling to state any agreement of that character unless it be put in writing.

Mr. BROWN, of Kentucky. I understand the gentleman from New York [Mr. WOOD] is now reducing to writing the proposition he has made.

After an interval,

Mr. WOOD, of New York. I have reduced to writing the proposition which I desire to submit to the House. It is as follows:

The amendment to be withdrawn, and the House to come to a direct vote upon the original resolution as amended by Mr. WALLING, of Ohio; the Senate then to be invited to meet the House for the purpose of continuing the count; and when the State of Vermont shall be reached, and the two Houses shall separate, then the House to take a recess until to-morrow at ten o'clock.

Many MEMBERS. That is right.

The SPEAKER. The gentleman will send his proposition to the Chair.

The proposition was read by the Clerk.

Mr. SPRINGER. I ask the gentleman from New York to add the words "on any question;" so that it will read: "and the two Houses shall separate on any question."

Mr. WOOD, of New York. I offer the proposition as I have sent it to the Chair.

The SPEAKER. The gentleman from New York asks unanimous consent that the agreement just read shall operate to govern the House in further proceedings as indicated. Is there objection? [After a pause.] The Chair hears none.

The question was upon the amendment offered by Mr. WALLING to add to the resolution the following:

In conformity with the decision of said commission.

The resolution, as it would read if amended, was read, as follows:

Resolved, That the objections to the decision of the electoral commission upon the electoral vote of South Carolina be sustained by the House, and that said vote be not counted in conformity with the decision of said commission.

The amendment was agreed to, and the resolution, as amended, was adopted.

Mr. WOOD, of New York. I move that the Senate be notified by the Clerk of the action of the House in this case and that the House is now ready to meet the Senate in joint convention.

The motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and bills of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 196) authorizing the President to designate and set apart a site for the colossal statue of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof;

An act (H. R. No. 4301) for the relief of A. W. Plymale;

An act (H. R. No. 4452) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1878, and for other purposes;

An act (H. R. No. 2382) in relation to the Hot Springs reservation, in the State of Arkansas;

An act (H. R. No. 4657) to provide a building for the use of the United States district and circuit courts, the post-office and internal-revenue officers at Austin, Texas;

An act (H. R. No. 2833) for the relief of Susan P. Vance; and

An act (H. R. No. 4149) to remove the political disabilities of Lloyd J. Beall, of Virginia.

Mr. HARRIS, of Georgia, from the same committee, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States.

#### COUNTING THE ELECTORAL VOTES.

At six o'clock and eighteen minutes p. m. the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms and headed by its President *pro tempore* and its Secretary, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses having separately determined upon the objections to the decision of the commission on the certificates from the State of South Carolina, the Secretary of the Senate will read the resolution adopted by the Senate.

The Secretary of the Senate read the resolution, as follows:

*Resolved*, That the decision of the commission upon the electoral vote in the State of South Carolina stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDING OFFICER. The Clerk of the House of Representatives will now read the resolution adopted by the House of Representatives.

Mr. JONES, of Kentucky. I desire to inquire if there is a quorum of the Senate present? The law under which we are acting and the Constitution of the United States require that the certificates shall be opened in the presence of both Houses. If, therefore, there is not a quorum of the House and Senate present I imagine that this proceeding cannot go on.

Mr. BANKS. That is not a question for the convention to decide; the Senate must decide it for itself.

The PRESIDING OFFICER. The Clerk of the House will read the resolution of the House.

Mr. JONES, of Kentucky. I protest that this proceeding should not go on.

The PRESIDING OFFICER. Debate is not in order.

Mr. JONES, of Kentucky. My protest is entered and should go on the record.

The Clerk read the resolution adopted by the House, as follows:

*Resolved*, That the objections to the decision of the electoral commission upon the electoral vote of South Carolina be sustained by the House, and that said vote be not counted in conformity with the decision of said commission.

The PRESIDING OFFICER. The two Houses not concurring in ordering otherwise, the decision of the commission stands unreversed, and the vote of the State of South Carolina will be counted in conformity therewith. The tellers will announce the vote of the State of South Carolina.

Mr. STONE, (one of the tellers.) South Carolina casts 7 votes for Rutherford B. Hayes, of Ohio, for President of the United States, and 7 votes for William A. Wheeler, of New York, for Vice-President of the United States.

The PRESIDING OFFICER. Having opened the certificate received by messenger from the State of Tennessee the Chair hands it to the tellers, to be read in the presence and hearing of the two Houses, and the corresponding certificate received by mail is also handed to the tellers.

Mr. LAPHAM. I suggest that by unanimous consent the reading of the certificates be dispensed with and the result of the vote simply announced.

The PRESIDING OFFICER. Is there objection to dispensing with the reading of the certificate in full and simply announcing the result? [After a pause.] There is no objection and the tellers will make the announcement in conformity with that understanding.

Senator ALLISON, (one of the tellers.) The State of Tennessee casts 12 votes for Samuel J. Tilden, of New York, for President of the United States, and 12 votes for Thomas A. Hendricks, of Indiana, for Vice-President of the United States.

The PRESIDING OFFICER. Having opened the certificate received by messenger from the State of Texas, the Chair hands the same to the tellers, to be read in the hearing and presence of the two Houses, and the corresponding one received by mail is also handed to the tellers.

Mr. COOK (one of the tellers) then read the certificate and announced that the State of Texas cast 8 votes for Samuel J. Tilden, of New York, for President, and 8 votes for Thomas A. Hendricks, of Indiana, for Vice-President.

The PRESIDING OFFICER. Having opened the certificate received by messenger from the State of Vermont, the Chair hands the same to the tellers, to be read in the presence and hearing of the two Houses, and the corresponding one received by mail is also handed to the tellers.

Mr. POPPLETON. I ask that the certificate from the State of Vermont be read at length.

The PRESIDING OFFICER. The certificate in full will be read, objection being made to dispensing with reading any portion of it.

Senator INGALLS (one of the tellers) then read in full the certificate from the State of Vermont, to the effect that that State had cast 5 votes for Rutherford B. Hayes, of Ohio, for President, and 5 votes for William A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER. Are there any objections to the certificate from the State of Vermont?

Mr. POPPLETON. I desire to inquire of the President of the Senate whether there have been other returns, or papers purporting to be returns, received from the State of Vermont?

The PRESIDING OFFICER. There have been none received except the one submitted.

Mr. POPPLETON. I desire to say that I have prepared objections, upon information by telegraph and otherwise that there were dual returns from the State of Vermont.

Mr. HEWITT, of New York. I desire to make a statement.

The PRESIDING OFFICER. Is there objection to the member from New York [Mr. HEWITT] making a statement? [After a pause.] The Chair hears none.

Mr. HEWITT, of New York. I hold in my hand a package which purports to contain electoral votes from the State of Vermont. This package was delivered to me by express about the middle of December last, and with it came a letter stating that a similar package had been forwarded by mail to the Presiding Officer of the Senate. Being informed to-day that no package corresponding to this had been received by mail by the Presiding Officer of the Senate, I called upon him and inquired whether any other than one certificate from the State of Vermont had been received by him by mail, and he informed me that there had been no other received by him than the one which was already in his possession.

I then tendered to him this package, the seals of which are unbroken and which is now as it came into my possession. He declined to receive it, upon the ground that he had no authority in law so to do. Under the circumstances I now tender this package to the Presiding Officer of the Senate as purporting to contain electoral votes from the State of Vermont.

Mr. KASSON. I object to the reception of the package.

Mr. SPRINGER. I offer the following resolution—

The PRESIDING OFFICER. The Chair has stated that he has received but one set of certificates from the State of Vermont. He also states that the law prohibits him from receiving any after the first Thursday in February. His duty is to receive and open and have read all certificates that have been received by him up to and on that day.

Mr. SPRINGER. I understand that a third certificate or return from the State of Florida was received on the 30th day of January, and was laid before the two Houses by the Presiding Officer of the Senate when that State was reached.

Mr. KASSON. This is in the nature of debate, and I must object.

The PRESIDING OFFICER. The 30th of January is not the first Thursday in February. The Chair now asks if there are any objections to the certificate from the State of Vermont?

Mr. SPRINGER. I submit the resolution which I send up—

Mr. KASSON. I object.

The PRESIDING OFFICER. If it is an objection to the certificate from the State of Vermont, the Chair will entertain it; but if it is a simple resolution the Chair cannot entertain it.

Mr. SPRINGER. I ask that it be read. It is in reference to "a question arising under the electoral act," which is provided for by the fourth section of the electoral bill, to which I call the attention of the Chair:

That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or upon objection to a report of said commission, or other question arising under this act, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once.

This is a "question arising under this act," and I offer the resolution as such, and ask that it be read at the Clerk's desk.

The PRESIDING OFFICER. The Chair again states that if the member from Illinois [Mr. SPRINGER] submits an objection to the certificate from the State of Vermont the Chair will entertain it; but the Chair cannot entertain a resolution.

Mr. SPRINGER. I submit it as a question arising under the electoral act.

The PRESIDING OFFICER. The Chair cannot entertain it.

Mr. SPRINGER. I ask that it be read.

The PRESIDING OFFICER. If the member states that it is an objection to the certificate from the State of Vermont, the Chair will direct it to be read.

Mr. SPRINGER. I will read it for information. (Cries of "Object!" "Object!" and "Order!" "Order!")

The PRESIDING OFFICER. It is out of order.

Mr. SPRINGER. Gentlemen may as well hear it read, because it is a question arising under the electoral act. I ask that it be read.

The PRESIDING OFFICER. Objection is made.

Mr. SPRINGER. I ask that the resolution be read as a question arising under the electoral act. The question is this—

Renewed cries of "Order!" "Order!"

The PRESIDING OFFICER. Objection is made.

Mr. SPRINGER. That one of the two returns from the State of Vermont has not been laid before the two Houses.

The PRESIDING OFFICER. The Chair will be compelled to direct the member to be seated.

Mr. SPRINGER. Mr. President, I have rights upon this floor which you cannot take away from me, rights which were given me by the people I have the honor to represent. I desire to submit a "question arising under the electoral act," and now ask that it be entertained by the Chair.

The PRESIDING OFFICER. The Chair has decided that if the member states that it is an objection to the certificate from the State

of Vermont, with the signatures of one Senator and one Representative, it will be read; but if not, it cannot be read.

Mr. SPRINGER. It is a question arising under the electoral act. It is now in order, and I ask the decision of the Chair upon it.

The PRESIDING OFFICER. The Chair decides that he will not entertain anything except objections to the certificates.

Mr. SPRINGER. I appeal from the decision of the Chair.

The PRESIDING OFFICER. The Chair cannot entertain an appeal. [Applause.] The Chair requires order.

Mr. SPRINGER. I ask that the question be put on my appeal.

The PRESIDING OFFICER. The Chair cannot entertain any appeal.

Mr. SPRINGER. This objection must be read; otherwise the count cannot be proceeded with in accordance to law. [Cries of "Order!"]

The PRESIDING OFFICER. The member from Illinois is not in order.

Mr. SPRINGER. Will the Chair allow this to be stated as a question arising under the act—as an objection to the counting of the vote?

The PRESIDING OFFICER. The Chair has stated, and will state once more, that if the gentleman presents an objection bearing the signature of a Senator and a Representative the Chair will receive it and submit it to the joint meeting.

Mr. SPRINGER. Then I will submit this as an objection to counting the vote, on the ground that another return has been sent here which has not been laid before the two Houses, and ask time to prepare the objection in due form and present it with the signature of a Senator and a Representative.

The PRESIDING OFFICER. When the member submits the paper in proper form the Chair will then rule upon it.

Mr. POPPLETON. I send up an objection—

The PRESIDING OFFICER. The Chair will rule upon one case at a time. Let order be restored and gentlemen be seated. We have all night before us. [A pause, during which Mr. SPRINGER was preparing the objection.] The member from Illinois submits an objection to the certificate from the State of Vermont. Has the member a duplicate?

Mr. SPRINGER. Not now; it will be prepared hereafter.

The PRESIDING OFFICER. The Clerk of the House will report the objection.

The Clerk of the House read as follows:

BURLINGTON, VERMONT, February 23, 1877.

[Received at two o'clock and twenty-six minutes p. m.]

To S. J. RANDALL,  
Speaker of the House of Representatives.

The PRESIDING OFFICER. The Clerk will turn over the paper and read the objection.

Mr. SPRINGER. The objection first and the telegram afterward.

The Clerk of the House read as follows:

The undersigned, Senator and Members of the House of Representatives, object to the counting of the vote of the State of Vermont, for the reason that two returns, or papers purporting to be returns, of the electoral vote of said State were forwarded to the President of the Senate, and that only one of said returns has been laid before the two Houses, the President of the Senate having stated that but one return has been received by him from said State; and a duplicate copy of one of said returns is herewith submitted for the consideration of the Senate and House of Representatives.

A. S. MERRIMON,  
Senator.

W. M. SPRINGER,  
A. H. HAMILTON,

Members of the House of Representatives.

The PRESIDING OFFICER. Are there further objections to the certificate of the State of Vermont?

Mr. SPRINGER. I ask that the telegram accompanying this objection be read.

The PRESIDING OFFICER. Is there objection to reading the accompanying telegram?

Several members objected.

Mr. TOWNSEND, of New York. It will not do any hurt to read it. It is not long.

Mr. SPRINGER. It is a short telegram; only about ten words.

The PRESIDING OFFICER. Is there objection?

Mr. PAGE. I object. [Cries of "O, no!"]

The PRESIDING OFFICER. Does the gentleman persist in his objection?

Mr. PAGE. I waive the objection.

The PRESIDING OFFICER. The Chair hears no objection, and the telegram will be read.

The Clerk of the House read as follows:

BURLINGTON, VERMONT, February 28, 1877.

[Received at two o'clock and twenty-six minutes p. m.]

To S. J. RANDALL,  
Speaker of the House of Representatives:

Certificate of Amos Aldrich as elector was deposited in this office December 13, 1876.

B. B. SMALLEY,  
Clerk of the United States District Court for Vermont.

A SENATOR. That is not the post-office. [Laughter.]

The PRESIDING OFFICER. Are there further objections to the certificate from the State of Vermont?

Mr. POPPLETON. Yes, sir. I submit the objection which I send to the desk.

The PRESIDING OFFICER. The member from Ohio submits an objection, which will be read by the Secretary of the Senate.

The objection was read, as follows:

The undersigned Senator and Representatives object to the return from the State of Vermont on the grounds following, namely:

1. That Henry N. Sollace, who is certified to have been elected on the 7th of November, 1876, was at that day, and for a long time before had been, a postmaster of the United States, and therefore held an office of trust and profit under the United States, and could not be constitutionally appointed an elector of said State under the Constitution of the United States.

2. That the law of Vermont did not authorize the election of said Sollace to fill the vacancy alleged to have been the result of the absence of said Sollace from the college of electors.

3. It does not appear that said Sollace had resigned his office of postmaster at the date of his appointment by the college of electors.

4. That Amos Aldrich, who received the highest vote at the election on the 7th day of November, 1876, next to that cast for said Sollace, should have been allowed to have cast one of the electoral votes of the State of Vermont.

W. H. BARNUM, Connecticut,  
Senator.

E. F. POPPLETON,  
J. A. McMAHON,  
JACOB TURNERY, Pennsylvania,  
JOHN L. VANCE, Ohio,  
G. G. DIBRELL, Tennessee,  
FRANK H. HURD,  
A. T. WALLING, Ohio,  
WM. TERRY,

Representatives.

The PRESIDING OFFICER. Are there any further objections to the certificate of the State of Vermont?

Mr. POPPLETON. I submit the following additional objections.

The PRESIDING OFFICER. Has the member from Ohio a duplicate?

Mr. POPPLETON. I will furnish a duplicate hereafter.

The PRESIDING OFFICER. The objections will be read by the Clerk of the House of Representatives.

Mr. ADAMS (Clerk of the House of Representatives) read as follows:

The undersigned Senator and Members object to the Return No. 1 from the State of Vermont on the ground following, to wit:

I. That Henry S. Sollace, who is certified to have been elected on the 7th day of November, 1876, was at that day, and for a long time before had been, a postmaster of the United States, and therefore held an office of trust and profit under the United States, and could not be constitutionally appointed an elector of said State under the Constitution of the United States.

II. That the law of Vermont did not authorize the election of said Sollace to fill the vacancy alleged to have been the result of the absence of said Sollace from the college of electors.

III. It does not appear that said Sollace had resigned his office of postmaster at the date of his appointment to the college of electors, which fact is proper to be inquired of by the commission established by law.

IV. It is proper for the said commission to inquire and report whether Amos Aldrich, who received the highest number of votes at the election on the 7th day of November, 1876, next to that cast for said Sollace, and who is certified as an elector by Certificate No. 2, is not the duly appointed elector for the State of Vermont.

W. H. BARNUM, of Connecticut,  
Senator.

EARLEY F. POPPLETON, of Ohio,  
JOHN A. McMAHON, of Pennsylvania,  
JACOB TURNERY, of Pennsylvania,  
JOHN L. VANCE, of Ohio,  
GEORGE G. DIBRELL, of Tennessee,  
FRANK H. HURD, of Ohio,  
ANSEL T. WALLING, of Ohio,  
WILLIAM TERRY, of Virginia,  
Representatives.

The PRESIDING OFFICER. Are there further objections to the certificate of the State of Vermont?

Mr. SPRINGER. I ask that the duplicate return shall now be opened by the Presiding Officer and read by the tellers.

The PRESIDING OFFICER. The original certificate from the State of Vermont has been read.

Mr. SPRINGER. I refer to the dual return submitted with my objections, and referred to in those objections. [Cries of "Order!"] I ask that that second return be opened, and now read.

The PRESIDING OFFICER. That is not an objection.

Mr. SPRINGER. That is not an objection, but it is my right to demand that it shall be read as it has been laid before the two Houses. [Cries of "Order!"] It is my right to have it read.

The PRESIDING OFFICER. Does the gentleman refer to the one corresponding with that received by messenger; that is, the one received by mail?

Mr. SPRINGER. I allude to the one submitted by the gentleman from New York, [Mr. HEWITT.]

The PRESIDING OFFICER. So the Chair understood, and rules it out. [Laughter.]

Mr. SPRINGER. I ask that the Chair will now order, the State of Vermont having forwarded double returns, that those returns and the objections thereto shall now be submitted to the judgment of the electoral commission. [Laughter and cries of "Object!"]

The PRESIDING OFFICER. The Presiding Officer has stated that he has not received any duplicate returns from the State of Vermont.

Mr. SPRINGER. They are now before the joint meeting, presented by the gentleman from New York.

The PRESIDING OFFICER. Are there further objections to the State of Vermont? The Chair hears none.

Mr. SPRINGER. Does the Chair decline to receive the return laid on the table with my objections?

The PRESIDING OFFICER. The Chair declines to receive any return from any State at this time.

Mr. WADDELL. As being *aliunde*, I suppose, Mr. President. [Great laughter.]

The PRESIDING OFFICER. In any form. [Laughter.]

If there are no further objections to the certificate from the State of Vermont the Senate will withdraw to its Chamber to separately consider the objections already presented and read.

Mr. SPRINGER. I make the point that the electoral vote of the State of Vermont now goes to the commission, and cannot be considered separately by the two Houses. [Laughter.] O, yes; you can laugh now, but the laugh will be on the other side after awhile. Let me tell gentlemen that the law which they have been so anxious to carry out heretofore is now being disregarded by them. [Laughter.]

The Senate, at seven o'clock and ten minutes p. m., withdrew.

Mr. MILLS. Mr. Speaker, is it in order now for the House of Representatives to proceed to elect the next President of the United States? [Cries of "Recess!" "Order!"]

Mr. WOOD, of New York. I move the House take a recess.

The SPEAKER. No motion is in order, but the House now, in obedience to the unanimous agreement, takes a recess until to-morrow morning at ten o'clock.

Accordingly, at seven o'clock and fifteen minutes p. m., the House took a recess until ten o'clock to-morrow morning.

#### AFTER THE RECESS.

The recess having expired, the House resumed its session at ten o'clock a. m., Thursday, March 1.

#### ORDER OF BUSINESS.

The SPEAKER. The Chair desires to submit some requests to which he thinks there will be no objection.

#### LEAVE TO PRINT.

By unanimous consent, Mr. LYNCH obtained leave to have printed in the RECORD some remarks on the Louisiana report.

By unanimous consent, Mr. LANDERS, of Indiana, obtained leave to have printed in the RECORD some remarks on the substitute offered by him for the Texas and Pacific Railroad bill.

By unanimous consent, Mr. WELLS, of Missouri, obtained leave to have printed in the RECORD some remarks on House bill No. 3922.

By unanimous consent, Mr. LAWRENCE obtained leave to have printed in the RECORD some remarks on general politics and finances.

By unanimous consent, Mr. HAYMOND obtained leave to have printed in the RECORD some remarks on the decision of the electoral commission in regard to the electoral vote of South Carolina.

By unanimous consent, Mr. THROCKMORTON obtained leave to have printed in the RECORD some remarks touching the construction of the Texas and Pacific Railroad.

By unanimous consent, Mr. NEAL obtained leave to have printed in the RECORD some remarks on the construction of the Texas and Pacific Railroad.

By unanimous consent, Mr. CULBERSON obtained leave to have printed in the RECORD some remarks on the Oklahoma Territory bill.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. GOODIN, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of A. H. von Luettwitz, lieutenant in the Third United States Cavalry, there being no adverse report thereon.

On motion of Mr. McMAHON, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of Michael Mack, there being no adverse report thereon.

On motion of Mr. LANE, by unanimous consent, leave was given to withhold from the files of the House the papers in the case of the claim of the heirs of C. M. Lockwood, there being no adverse report thereon.

On motion of Mr. O'BRIEN, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of the petition of the Baltimore City authorities relative to outlay by said city in 1863, there being no adverse report thereon.

On motion of Mr. DE BOLT, by unanimous consent, leave was given to withdraw from the files of the House the papers in the case of Frank M. Lewis, of Chariton County, Missouri, there being no adverse report thereon.

#### UNITED STATES EXECUTIVE DEPARTMENTS AT INTERNATIONAL EXHIBITION.

Mr. KELLEY, by unanimous consent, introduced a joint resolution (H. R. No. 193) authorizing the publication of the report of the board on behalf of the United States Executive Departments at the international exhibition of 1876; which was read a first and second time, referred to the Committee on Printing, and ordered to be printed.

#### HENRY LEWIS.

Mr. VANCE, of Ohio, by unanimous consent, submitted the following resolution; which was referred to the Committee of Accounts.

*Resolved.* That the Clerk of the House be directed to pay Henry Lewis \$120 out of the contingent fund of the House for services in the Doorkeeper's department during the months of January and February 1877.

#### SALARIES OF PAGES.

Mr. VANCE, of Ohio, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved.* That the Clerk of the House be, and he is hereby, directed to pay to the pages of the House their salaries for the entire month of March, out of the contingent fund of the House.

#### REPORTS OF COMMISSIONER OF FISH AND FISHERIES.

Mr. BALLOU, by unanimous consent, from the Committee on Printing, reported the following concurrent resolution; which was read, considered, and adopted:

*Resolved by the House of Representatives, (the Senate concurring.)* That of the Reports of the United States Commissioner of Fish and Fisheries for the years 1873-'74 and 1874-'75, in one volume, there be printed from the stereotype plates 5,000 copies; of which 3,000 shall be for the use of the House of Representatives, 1,000 for the Senate, and 1,000 for the commissioner of fish and fisheries.

Mr. BALLOU moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BALLOU also, by unanimous consent, from the Committee on Printing, reported back, with a favorable recommendation, the following concurrent Senate resolution:

*Resolved by the Senate, (the House of Representatives concurring.)* That there be printed 4,500 extra copies of the Report of the Commissioner of Fish and Fisheries for the years 1875 and 1876; of which 1,000 shall be for the use of the Senate, 2,500 for the use of the House of Representatives, and 1,000 for the use of the commissioner of fish and fisheries.

Mr. BALLOU moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LIGHT-HOUSE AT LITTLE TRAVERSE HARBOR.

Mr. BRADLEY, by unanimous consent, presented a joint resolution of the Legislature of the State of Michigan, asking Congress for an appropriation to construct a light-house on the point of Little Traverse Harbor, in the county of Emmet, Michigan; which was referred to the Committee on Commerce, and ordered to be printed in the RECORD.

The joint resolution is as follows:

Joint resolution asking Congress for an appropriation to construct a light-house on the point of Little Traverse harbor, in the county of Emmet, Michigan.

Whereas the rapidly increasing commerce of Little Traverse Bay and the waters of that vicinity of Lake Michigan demands the immediate improvement of the harbor of Little Traverse by the erection of a suitable light-house at its entrance: Therefore,

*Resolved by the senate and house of representatives of the State of Michigan,* That our Senators and Representatives in Congress be requested to use their best endeavors to procure the necessary appropriation for the construction of a suitable light-house at the entrance of Little Traverse harbor, Emmet County, Michigan.

*Resolved.* That his excellency the governor be requested to transmit copies of the foregoing preamble and resolution to each of our Senators and Representatives in Congress.

ALONZO SESSIONS,

President of the Senate.

JOHN T. RICH,

Speaker of the House of Representatives.

Approved February 26, 1877.

CHARLES M. CROWELL.

#### STATE OF MICHIGAN.

Office of the Secretary of State, ss:

I, E. G. D. Holden, secretary of state of the State of Michigan, do hereby certify that I have compared the annexed copy of joint resolution asking Congress for an appropriation to construct a light-house on the point of Little Traverse harbor in the county of Emmet, Michigan, with the original as enrolled and now on file in this office, and that it is a true and correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Michigan, at Lansing, this 26th day of February, in the year of our Lord 1877.

[SEAL.]

E. G. D. HOLDEN,

Secretary of State.

#### REMOVAL OF POLITICAL DISABILITIES.

Mr. WIGGINTON. I ask unanimous consent to introduce and have passed at this time a bill to remove the political disabilities of Henry B. Davidson, of California.

Mr. BURCHARD, of Illinois. I object to proceeding to the consideration of bills. I have no objection to bills being introduced for reference.

The SPEAKER. The Chair desires to say that there are on the Speaker's table quite a number of disability bills which he would like to have an opportunity of presenting to the House.

Mr. BURCHARD, of Illinois. I have no objection if this is a bill for the removal of disabilities.

The SPEAKER. The pressure on the Chair in this respect is very great, and the Chair thinks these citizens should have their disabilities removed. Is there objection to the present consideration of these bills?

There was no objection.

The bill (H. R. No. 4694) to remove the political disabilities of Henry B. Davidson, of California, was read a first and second time.

Mr. TOWNSEND, of Pennsylvania. Is there a petition accompanying the bill?

The SPEAKER. There is a petition accompanying it and it will be printed.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed, two-thirds voting in favor thereof.

Mr. HOLMAN. I shall have to object to this business, unless it be confined to matters for reference.

The SPEAKER. The Chair has asked and obtained the unanimous consent of the House that these bills for the removal of political disabilities may be considered at this time.

Mr. HOLMAN. I do not object to the consideration of bills for the removal of disabilities.

By unanimous consent, the following bills were taken from the Speaker's table, read three times, and passed, two-thirds voting in favor thereof:

The bill (S. No. 1203) to remove the political disabilities of M. L. Bonham, of South Carolina; and

The bill (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia.

Mr. CONGER. Let it be understood that there are petitions accompanying all these bills.

The SPEAKER. The Chair is noticing that fact; and if any member desires, the petitions will be printed in the RECORD.

The following bills from the Senate were by unanimous consent taken from the Speaker's table, read a first and second time, ordered to a third reading, and passed, two-thirds voting in favor thereof:

A bill (S. No. 1136) to remove the political disabilities of Wade H. Gibbes, of South Carolina;

A bill (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;

A bill (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas;

A bill (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina;

A bill (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas;

A bill (S. No. 1274) to remove the political disabilities of S. P. Moore, M. D., a citizen of Virginia;

A bill (S. No. 1276) to remove the political disabilities of W. F. Carrington, of Virginia;

A bill (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama; and

A bill (S. No. 1278) to remove the political disabilities of John S. Marmaduke.

The SPEAKER. There are several House bills removing disabilities which have been returned from the Senate with amendments. If there be no objection, these bills will be taken up, and the amendments acted upon.

There was no objection.

Senate amendments to the bill (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney and William R. Jones were read, as follows:

Strike out the name of William R. Jones.

Strike out the words "reason of their participation in the late war" and insert "the fourteenth amendment of the Constitution of the United States."

The SPEAKER. The Chair understands that in the opinion of the Senate there shall be a separate bill for each individual whose disabilities are to be removed.

The amendments were concurred in.

Senate amendment to the bill (H. R. No. 3791) to remove the legal and political disabilities of William A. Webb, of Virginia, was read, as follows:

Strike out in the body of the bill and in the title the words "legal and."

The amendment was concurred in.

Senate amendment to the bill (H. R. No. 3730) to remove the political disabilities of John D. Simms and Samuel V. Turner, of Virginia, was read, as follows:

Strike out the name of "John D. Simms" wherever it occurs.

The amendment was concurred in.

Senate amendment to the bill (H. R. No. 3260) to remove the disabilities of Lawrence S. Baker, of Tarborough, North Carolina, was read, as follows:

Strike out in the body of the bill and in the title the words "legal and."

The amendment was concurred in.

#### DIGEST OF INTERNATIONAL LAW.

Mr. VANCE, of Ohio. I am instructed by the Committee on Printing to report back with a favorable recommendation the Senate resolution which I send to the desk.

The Clerk read as follows:

*Resolved by the Senate, (the House of Representatives concurring.)* That of a digest of the opinions of the Attorneys-General and of the decisions of the Federal courts with reference to international law and kindred subjects, prepared at the Department of State, there be printed in addition to the usual number 500 copies for the use of the Senate, 1,500 copies for the use of the House of Representatives, and 1,000 copies for the use of the Department of State.

Mr. HOLMAN. I do not think this is a matter of general interest. I believe I must object.

Mr. VANCE, of Ohio. The Committee on Printing have unanimously instructed me to report this resolution favorably and ask the concurrence of the House.

Mr. LAWRENCE. Let the resolution be modified so as to say "for the use of the present members of the House of Representatives."

Mr. HOLMAN. I must call for a division of the House on agreeing to this resolution. This is a publication of no general value.

The SPEAKER. The Chair thinks that unanimous consent is necessary to the passage of any of these resolutions at the present time; and he understands the gentleman from Indiana [Mr. HOLMAN] as objecting.

#### SMITHSONIAN REPORT FOR 1876.

Mr. SINGLETON. I ask unanimous consent to report back from the Committee on Printing a resolution in reference to the Smithsonian Report for 1876, with sundry amendments.

The Clerk read as follows:

*Resolved by the House of Representatives, (the Senate concurring.)* That 10,500 copies of the report of the Smithsonian Institution for the year 1876 be printed; 1,000 copies of which shall be for the use of the Senate, 2,000 copies of which shall be for the use of the House of Representatives, and 7,500 for the use of the Smithsonian Institution: *Provided*, That the aggregate number of pages shall not exceed five hundred, and that there be no illustrations except those furnished by the Smithsonian Institution.

The amendments reported by the committee were read, as follows:

In line 6 strike out the word "two" and insert "three;" so that it will read "\$3,000" instead of "\$2,000."

In line 8 strike out the word "seven" and insert "six;" so that it will read "\$6,000" instead of "\$7,000."

There being no objection, the amendments reported by the Committee on Printing were agreed to; and the resolution of the Senate, as amended, was concurred in.

Mr. SINGLETON moved to reconsider the vote by which the resolution, as amended, was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. BURCHARD, of Illinois. I call for the regular order.

Mr. O'BRIEN. Is there a quorum present? I move that there be a call of the House.

Mr. HENDEE. I have a resolution in relation to the vote of Vermont which I desire to offer.

Mr. WOOD, of New York. I object to everything but the regular order. I offer the resolution which I send to the Clerk's desk.

Mr. WALLING. I rise to a question of privilege. I submit that a member has a right to move a call of the House, and that motion has been made by the gentleman from Maryland, [Mr. O'BRIEN.]

Mr. CONGER. Well, there have been two-thirds of the House voting all the morning to pass bills removing disabilities.

Mr. O'BRIEN. That was done by unanimous consent.

The SPEAKER. The Chair will count the House. [After a pause.] There are one hundred and sixty-two members present, which is more than a quorum.

Mr. WALLING. I rise to a question of order, and it is whether it is not the right of a member on this floor to move a call of the House, and whether upon that motion the roll must not be called to verify the fact that there is a quorum present.

The SPEAKER. The Chair desires to read to the House from Rule 132:

A call of the House shall not be in order after the previous question is seconded, unless it shall appear, upon an actual count by the Speaker, that no quorum is present.

That would seem to imply that a call of the House is in order, and the Chair therefore entertains the motion of the gentleman from Ohio [Mr. WALLING] and will submit it to the House.

Mr. CONGER. I ask the question whether, as we are acting upon the objections made to the vote of Vermont, and when the Speaker has by actual count ascertained that there is a quorum present, if this is not a dilatory proposition?

The SPEAKER. The Chair thinks that the effect of the motion of the gentleman from Indiana is of a dilatory character, but the Chair thinks that he is bound to submit the question once to the House. The Chair desires to say that he has counted the House and that there are one hundred and sixty-two members present.

Mr. WOOD, of New York. Then I submit that it is not proper for any gentleman to demand a call of the House.

Mr. O'BRIEN. I desire to inquire whether it is not within the knowledge of the Speaker that in former Congresses of which he was a member there was a quorum present and a call of the roll showed that no quorum was present?

The SPEAKER. That was when gentlemen declined to vote; and moreover the motion would be allowable under the rules of the House, but under the law is not allowable, and the Chair is not responsible for the law.

Mr. WALLING. I understood the Speaker to say that he would submit the question to the House.

Mr. TOWNSEND, of New York. I understood that the Chair had recognized my colleague from New York, [Mr. WOOD,] and he offered a proposition. I submit that no other proposition can be in order before the resolution offered by my colleague is presented. He is upon the floor to present that resolution.

The SPEAKER. The gentleman from New York [Mr. WOOD] was on the floor to offer the resolution, and to demand the previous question thereon; but neither was the resolution read nor the previous

question demanded until it had been read, nor could it have been demanded until the resolution was read.

Mr. O'BRIEN. I moved a call of the House before the gentleman from New York was recognized.

Mr. WOOD, of New York. Allow me to say a word. The gentleman from Maryland [Mr. O'BRIEN] raised the question that no quorum was present, whereupon the Chair proceeded to determine the question. He counted the House and found that there were one hundred and sixty-two members present, which is more than a quorum. Now I submit that I had the floor, and that my resolution is before the House.

Mr. HOSKINS. My understanding is that we are operating under the electoral law, and if we are operating under that law and the Chair has decided that a quorum is present he is not bound to entertain a motion for a call of the House.

The SPEAKER. The House can very readily, if they do not wish a call of the House, vote down the motion.

Mr. HOSKINS. That is very true but we have to do business under the electoral law.

The SPEAKER. This does not depend upon the law, but upon the Constitution itself.

Mr. HOSKINS. Yes; but if a call of the House is allowed now it may be allowed at any stage of the proceedings whenever there is not a full House, or even if one member be absent.

The SPEAKER. The Chair would direct the attention of the gentleman from New York [Mr. HOSKINS] to that clause of the Constitution, which says:

But a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

Now, while the Chair has decided that there is a quorum present, the gentleman from Ohio [Mr. WALLING] practically disputes it, just as is the case when the Chair decides that a vote has either been carried in the affirmative or the negative and a division is called and a question raised as to the correctness of the decision of the Chair.

Mr. GARFIELD. That question is raised when the House is called upon to act on propositions relating to business.

The SPEAKER. The point is just here, that less than a quorum can do nothing. The Chair made an effort to ascertain if there is a quorum present, and he did ascertain to his own satisfaction that a quorum is present.

Mr. HOSKINS. And no gentleman has the right to raise that point until it appears upon a count, either by division or otherwise, that there is no quorum present.

The SPEAKER. The gentleman is mistaken; the Chair has the right to find out for himself whether or not there is a quorum present.

Mr. HOSKINS. The Chair misunderstands me. What I said was that no gentleman on the floor has the right to claim that there is no quorum present, after the Speaker has decided that there is a quorum present, until some question has been submitted to the House and upon a vote there shall appear to be no quorum.

The SPEAKER. That is the very point the gentleman from Ohio [Mr. WALLING] desires to arrive at.

Mr. WOOD, of New York. If a member can at any time rise in his seat and move a call of the House for the purpose of ascertaining if there be a quorum present, then business can be continually interrupted by such a motion.

The SPEAKER. A gentleman would have that right if no quorum was present.

Mr. WOOD, of New York. Under the ruling of the Chair that would be such a dilatory proceeding that the Chair under the law would not entertain it.

The SPEAKER. That depends upon how often the proceeding is repeated.

Mr. HALE. Cannot the Chair order tellers for the purpose of settling the question whether there be a quorum present or not?

The SPEAKER. The Chair thinks there is a quorum present; but the difficulty is that the gentleman from Ohio [Mr. WALLING] is not willing to take the statement of the Chair that there is a quorum present.

Mr. HALE. Cannot the Chair order tellers to determine the question?

Mr. GARFIELD. I understand that a motion for a call of the House has been made.

The SPEAKER. That is the motion.

Mr. GARFIELD. I hope we will take a vote on that motion.

The SPEAKER. The Chair thinks that is what is necessary to be done.

Mr. O'BRIEN. Let the vote be taken; we do not want any delay.

The SPEAKER. It is, in fact, a dispute as to the correctness of the count by the Chair.

Mr. BURCHARD, of Illinois. That certainly is not proper.

The SPEAKER. The Chair does not think there is any propriety in it, but the gentleman has the right to make it. The Chair will order tellers.

Mr. WALLING. I must disclaim any intention of impropriety in the motion I have made; and I make this disclaimer in response to the remark of the Speaker. I have a right to ascertain if there is a quorum in the House, which I propose to do by having a call of the House.

The SPEAKER. The Chair will appoint as tellers the gentleman from New York, Mr. WOOD, and the gentleman from Ohio, Mr. WALLING.

Mr. HENDEE. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HENDEE. My inquiry is this: Will it be in order to call the yeas and nays after the count of the tellers.

Mr. WALLING. Undoubtedly.

The SPEAKER. The tellers will take their places.

Mr. BURCHARD, of Illinois. What is the question upon which the House is now called to vote by tellers?

The SPEAKER. It is upon the motion of the gentleman from Ohio, [Mr. WALLING,] that there be now a call of the House.

The House divided; and the tellers reported that there were—ayes 32, noes 139.

Before the result of this vote was announced,

Mr. WALLING said: I desire to make a parliamentary inquiry.

The SPEAKER. What is it?

Mr. SPRINGER. I call for the yeas and nays.

Mr. WALLING. I desire to inquire if it is in order to call the yeas and nays on my motion; if so, I desire to make that call.

The SPEAKER. It is in order to have the yeas and nays, if the constitutional number direct that they be called.

Mr. WALLING. Then I call for the yeas and nays on my motion.

The question was taken upon ordering the yeas and nays; and there were 44 in the affirmative.

So (the affirmative being more than one-fifth of the last vote) the yeas and nays were ordered.

The question was taken; and there were—yeas 68, nays 169, not voting 53; as follows:

YEAS—Messrs. Ashe, John H. Bagley, jr., Banning, Blackburn, Boone, Bradford, Bright, Cabell, John H. Caldwell, William P. Caldwell, Carr, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Cook, Cowan, Davis, Dibrell, Douglas, Faulkner, Finley, Forney, Franklin, Fuller, Glover, Andrew H. Hamilton, Henry R. Harris, Hartzell, Henkle, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Luttrell, McMahon, Meade, Mills, Money, Morrison, Mutchler, O'Brien, John F. Phillips, Poppleton, Riddle, Roberts, Miles Ross, Seales, Sheakley, William E. Smith, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Robert B. Vance, Waddell, Walsh, Whitthorne, Wigginton, Jere N. Williams, and Benjamin Wilson—68.

NAYS—Messrs. Adams, Ainsworth, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Bell, Blair, Bland, Blount, Bradley, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Cason, Chittenden, Collins, Crapo, Crouse, Culberson, Cutler, Danford, Darrall, Davy, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Eden, Egbert, Evans, Felton, Flye, Fort, Foster, Freeman, Frye, Garfield, Gause, Goode, Goodin, Gunter, Hale, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, John T. Harris, Harrison, Hartridge, Hatcher, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moine, Levy, Lord, Lynch, Magoon, MacDongall, McCrary, McDill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Saylor, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Stevenson, Stowell, Strait, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Walling, G. Wiley Wells, White, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodworth, and Yeates—169.

NOT VOTING—Messrs. Abbott, Anderson, Atkins, Bass, Beebe, Bliss, Caswell, Cate, Chapin, Conger, Cox, Durand, Ellis, Field, Gibson, Robert Hamilton, Hays, Goldsmith W. Hewitt, Hill, Hooker, Hunton, Frank Jones, King, Franklin Landers, Lewis, Lynde, Mackey, Maish, McFarland, Metcalfe, Milliken, Odell, Page, Payne, Piper, Purman, Rice, Schumaker, Slemson, Southard, Stephens, Swann, Thomas, Tucker, Waldron, Ward, Warner, Warren, Watterson, Erastus Wells, Wheeler, Woodburn, and Young—53.

So the House refused to order a call of the House.

During the roll-call,

Mr. LÄNDERS, of Connecticut, stated that his colleague, Mr. WARNER, was absent on account of illness.

The vote was then announced as above recorded.

Mr. WALLING. I move to reconsider the vote by which the House refused to order a call of the House.

Mr. WOOD, of New York. I believe I have the floor.

The SPEAKER. The gentleman from New York offered a resolution, which has not yet been read.

Mr. WALLING. But I moved to reconsider the vote by which the House refused to order a call of the House. I have the right to do that. It is my motion. It is a privileged motion.

Mr. HOOKER. The gentleman from New York undoubtedly has the floor.

Mr. SPRINGER. But the motion to reconsider may take any gentleman off the floor.

The SPEAKER. The gentleman from Ohio makes a privileged motion, and that is to reconsider the vote by which the House refused to order a call of the House.

Mr. WOOD, of New York. That is clearly and palpably a dilatory motion.

The SPEAKER. The motion to reconsider cannot be considered as a dilatory motion.

Mr. WALLING. It never has been so held in any legislative body.

Mr. HANCOCK. I rise to a question of order. We cannot hear what is going on.

The SPEAKER. It is well taken. The officers of the House are requested to invite gentlemen who are here by courtesy of the House either to cease conversation or retire beyond the bar.

The gentleman from Ohio moves to reconsider the vote by which the House refused to order a call of the House.

Mr. WOOD, of New York. I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. WOOD, of New York. It is that under the ruling of the Chair and under the electoral law it is not competent for any member to make any motion which is clearly intended to cause delay; that the object of this motion can have no practical effect in the interest of public policy or legislation when we know there is more than a quorum of members present. On propositions relating to a call of the House it has been determined three times already there is more than a majority of members on the floor. I hold therefore that the motion to reconsider is entirely unnecessary and only intended to consume time in the call of the roll.

Mr. MILLS. I wish to address the gentleman from New York a question.

Mr. WOOD, of New York. What is it?

Mr. MILLS. I ask the gentleman whether every motion requiring a vote of this House is not to that extent dilatory and does not require some time?

The SPEAKER. The Chair wishes to say in reply to the gentleman from New York that he never has ruled in any particular, either by inference or otherwise, that a motion to reconsider was a dilatory motion. The Chair is very clear that anything the House can do, it can undo by a motion to reconsider.

Mr. WALLING. That is the very thing.

The SPEAKER. The House having had before it a motion to order a call of the House, and having refused to order a call of the House, the House has it within its power to undo its actions by a motion to reconsider.

Mr. HALE. I move to lay the motion to reconsider upon the table.

Mr. HANCOCK. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 173, nays 66, not voting 51; as follows:

YEAS—Messrs. Adams, Ainsworth, Ashe, Bagby, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Bradley, John Young Brown, William R. Brown, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Burtz, Campbell, Candler, Cannon, Cason, Caswell, Chapin, Chittenden, Conger, Crapo, Crouse, Cutler, Danford, Darrall, Davis, Davy, De Bolt, Denison, Dobbins, Douglas, Dummell, Durham, Eames, Eden, Egbert, Ellis, Evans, Faulkner, Felton, Flye, Fort, Freeman, Frye, Gause, Goodin, Gunter, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Hill, Hoar, Hoze, Hopkins, Hoskins, House, Hubbell, Hurlbut, Hyman, Jenks, Joyce, Kasson, Kehr, Kelley, Kimball, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moine, Levy, Lord, Lynch, Magoon, MacDougall, McCrary, McMill, Miller, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Phelps, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Rainey, Rea, Reagan, John Reilly, James B. Reilly, John Robbins, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Saylor, Schleicher, Seelye, Singleton, Sinnickson, Smalls, Strait, Stevenson, Stowell, Tarbox, Teese, Thornburgh, Throckmorton, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Robert B. Vance, Wait, Charles C. B. Walker, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Warren, Erastus Wells, G. Wiley Wells, White, Whitehouse, Whiting, Willard, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodworth, and Yeates—173.

NAYS—Messrs. John H. Bagley, jr., Banning, Blackburn, Boone, Bradford, Bright, John H. Caldwell, William P. Caldwell, Carr, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Cook, Cowan, Cox, Dibrell, Finley, Forney, Foster, Franklin, Fuller, Goode, Andrew H. Hamilton, Henry R. Harris, Henkle, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Lane, Lynde, Mackey, Maish, McMahon, Meade, Mills, Money, Mutchler, O'Brien, Odell, John F. Phillips, Poppleton, Rice, Riddle, Roberts, Miles Ross, Seales, Sheakley, Slemmons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Turney, John L. Vance, Waddell, Walling, Walsh, Whithorne, and Wigington—66.

NOT VOTING—Messrs. Abbott, Anderson, Atkins, Bass, Bliss, Bount, Buckner, Cabell, Cate, Caulfield, Clymer, Collins, Culberson, Durand, Field, Garfield, Gibson, Glover, Hays, Goldsmith V. Hewitt, Holman, Hunter, Hutton, Frank Jones, King, Franklin Landers, Lewis, Luttrell, McFarland, Metcalfe, Milliken, Morrison, Payne, Piper, Pratt, Purman, Schumaker, A. Herr Smith, Stephens, Swann, Thomas, Waldron, Ward, Warner, Waterson, Wheeler, Wike, Andrew Williams, Jere N. Williams, Woodburn, and Young—51.

So the motion to reconsider was laid on the table.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that it had determined that the vote of Henry N. Sollace as elector of the State of Vermont should be counted with the other four votes of that State, the objections to the contrary notwithstanding. It further announced that the Senate was ready to meet the House to proceed with the count of the electoral vote for President and Vice-President.

#### ELECTORAL VOTE OF THE STATE OF VERMONT.

Mr. WOOD, of New York. I now claim the floor.

The SPEAKER. The gentleman from New York was recognized by the Chair to submit a resolution. The gentleman from Ohio, [Mr. POPPLETON,] who was the objector, demands as his right as objector to offer a resolution, whereupon the Chair will recognize the gentleman from Ohio if he desires to move a substitute, or the gentleman from New York to move an amendment.

Mr. MILLS. I rise to a parliamentary inquiry. Is not a question of privilege superior to the motion of the gentleman from New York?

The SPEAKER. This is a question of the highest privilege.

Mr. WOOD, of New York. Mine is a question of privilege, of the highest privilege.

Mr. CAULFIELD. The question which I propose to offer to this House is of higher privilege than that even of the gentleman from New York, and I ask that the Speaker will not agree to recognize any other gentleman until he hears this question which I desire to present.

Mr. BANKS. What is the gentleman's privileged question?

The SPEAKER. The Chair has not heard it stated yet.

Mr. BANKS. We cannot act upon it—

Mr. CAULFIELD. The question, Mr. Speaker, which I desire to present—

Mr. WOOD, of New York. I rise to a question of order. I ask the Speaker to entertain the questions of privilege in the order in which they are presented.

The SPEAKER. It is very plain that but one question of privilege can be pending at one time.

Mr. WADDELL. How does the Chair know which question is of higher privilege until he hears the gentleman from Illinois?

Mr. CAULFIELD. I ask that I may be allowed to state what is my question of privilege.

The SPEAKER. The gentleman from Ohio, [Mr. POPPLETON,] the objector to the certificate from the State of Vermont, asks to be recognized, and the Chair considers it his duty to recognize him.

Mr. CAULFIELD. Supposing I can show to the Speaker and to the House that the question which I propose is one of higher privilege than that of the gentleman from Ohio whom the Chair has recognized or proposes to recognize, would I not then be entitled to submit that question to the House before the gentleman from Ohio proceeds?

The SPEAKER. It is impossible for the Chair to distinguish between degrees of privilege attaching to different questions. One privileged question occupying the attention of the House precludes the introduction of another at the same time.

Mr. CAULFIELD. There is no question of privilege now occupying the attention of the House.

The SPEAKER. There is.

Mr. CAULFIELD. And I propose to submit one.

The SPEAKER. There is a question of privilege before the House. The gentleman from Ohio, [Mr. POPPLETON,] the objector, is on the floor on that question of privilege.

Mr. CAULFIELD. Will the Chair allow me to state the question of privilege which I desire to present?

Mr. EDEN. I object.

The SPEAKER. The gentleman from Ohio [Mr. POPPLETON] will submit his proposition.

Mr. POPPLETON. If I am recognized as holding the floor I yield to the gentleman from Illinois, [Mr. CAULFIELD.]

The SPEAKER. Is there objection?

Many members objected.

The SPEAKER. The gentleman from Ohio if he yields the floor yields it absolutely when objection is made.

Mr. POPPLETON. I send a resolution to the Chair.

Mr. WOOD, of New York. There is but one question of privilege before the House. I rise to a question of order.

The SPEAKER. The Chair wants to say to the gentleman from Ohio [Mr. POPPLETON] that he must be dealt with in good faith. The gentleman from Ohio, if he presents anything that does not appertain to the objection that he made in the joint convention, is not entitled to be recognized.

Mr. POPPLETON. I desire to say to the Speaker—

Mr. JONES, of Kentucky. Let the resolution be read.

Mr. POPPLETON. I desire to say that I am informed and believe that the resolution I have sent to the Chair pertains to one of the objections filed in the matter of the electoral vote of the State of Vermont.

Mr. CAULFIELD. The resolution is perfectly relevant.

Mr. SPRINGER. I submit there can be no decision as to the relevancy of this proposition until it has been read in the hearing of the House.

Mr. WOOD, of New York. I submit, as a question of order, that there is but one question which can be submitted to the House under the law which now governs our proceedings.

Mr. SPRINGER. That I deny.

Mr. WOOD, of New York. And that question I have sent to the Chair in the form of the ordinary resolution calling upon the House to act on the objection to the electoral vote of the State of Vermont. The gentleman from Ohio presented to me an identical copy of my own resolution; and it was understood between him and myself that he should present that resolution and I should call the previous question on it.

The SPEAKER. The Chair desires to make a statement to the House.

Mr. CAULFIELD. The House was no party to that agreement.

Mr. WOOD, of New York. The Chair was no party to the agreement. It was between the gentleman from Ohio and myself.

The SPEAKER. The Chair desires to state to the House what took place. The Chair recognized the gentleman from New York [Mr. WOOD] because the Chair did not think the gentleman from Ohio was in the House, although he subsequently learned from the gentleman that he was. The Chair, having been informed by the

gentleman from Ohio that he claimed his right as the objector to offer the usual resolution, sent for the gentleman from New York, and the two gentlemen came to the Chair together, and they entered into an understanding between themselves that the gentleman from Ohio was to be recognized by the Chair to offer the resolution in almost the exact words of the resolution which was in the hands of the gentleman from New York and the usual resolution heretofore offered in such cases.

Mr. WOOD, of New York. With the additional understanding—

The SPEAKER. The Chair was about to state it. With the additional understanding that the gentleman from New York was to be recognized by the Chair to demand the previous question.

Mr. WOOD, of New York. That was the understanding.

The SPEAKER. That is the position of the case.

Mr. WALLING. I desire to offer a resolution pertinent to the pending question, which I desire to have read.

The SPEAKER. The gentleman is not in order.

Mr. SPRINGER. I insist on the reading of the resolution submitted by the gentleman from Ohio, [Mr. POPPLETON.]

The SPEAKER. The Chair now submits to the gentleman from Ohio [Mr. POPPLETON] whether, after the statement made to the Chair, and after the statement made by the Chair in the presence of this House, he insists on changing his resolution from the form in which he showed it to the Chair.

Mr. POPPLETON. If the Speaker will bear with me I will make a statement.

The SPEAKER. The gentleman will proceed.

Mr. POPPLETON. I desire that the Speaker and this House shall understand the true status of this matter. I was making an effort to obtain the floor for the purpose of introducing both of these resolutions if necessary. I stood in this aisle attempting to catch the eye of the Speaker.

The SPEAKER. The gentleman was not in possession of the resolution which he now has, for it was then in the custody of the gentleman from Illinois, [Mr. CAULFIELD,] and was shown to the Chair by the gentleman from Illinois.

Mr. POPPLETON. I desire to say that I had notice of the resolution; I was advised as to the resolution; I was present when it was prepared, and while I did not have the physical custody of the resolution I had information concerning it and knew all about it. When I came upon the floor of the House this morning I ascertained the fact that the gentleman from New York, [Mr. WOOD] in my absence had arrogated to himself the right to control the floor against my rights as the objector.

The SPEAKER. Yes; and the Chair would not permit it.

Mr. POPPLETON. I went to the Speaker of this House and laid the matter before him, and he informed me that he would send for the gentleman from New York, [Mr. WOOD.] The gentleman from New York made his appearance, and in company with myself approached the Speaker's desk; and there I claimed my right. The gentleman from New York said that he insisted upon moving the previous question upon the resolution when offered; but I made no reply to it. I made no agreement; I made no contract. I simply placed myself upon my rights as a member of this House and the mover of the objection in the matter of the electoral vote of Vermont.

The SPEAKER. Does not the gentleman from Ohio [Mr. POPPLETON] think that his silence when that statement was made to him by the gentleman from New York [Mr. WOOD] was calculated to lead the Chair to understand that the agreement was accepted?

Mr. POPPLETON. Why, Mr. Speaker, I only desired that the gentleman from New York should not claim that which I believed did not belong to him and did belong to me. I believed I was entitled to the floor and to the conduct of this matter in relation to the electoral vote of Vermont. My only object, my only purpose was that the gentleman from New York should not usurp and take my place in the management of this matter, for I claim that he had no right to do so. I made no compact, no bargain with any party.

Mr. WOOD of New York. It is entirely unnecessary for my friend from Ohio [Mr. POPPLETON] to get any ways warm about this matter; it is a very simple question. I think the gentleman from Ohio does himself as well as others injustice. The Speaker has related correctly and accurately what actually occurred. I had the right to claim the floor; the journal clerk has a record of my recognition by the Chair. My resolution is a question of privilege, and there is nothing in the rules or in the law that gives any one man any greater right than another to move this resolution. It is a question of privilege, and I have just as much right to present such a resolution as the gentleman from Vermont, [Mr. HENDEE,] the gentleman from Ohio, [Mr. POPPLETON,] or any member of this House.

The SPEAKER. The Chair did not say to the contrary.

Mr. WOOD, of New York. When the gentleman from Ohio [Mr. POPPLETON] claimed the privilege of presenting the resolution I yielded to him.

The SPEAKER. The Chair did not say to the contrary, but suggested to the gentleman from New York [Mr. WOOD] that there was a propriety in recognizing the gentleman from Ohio [Mr. POPPLETON] to submit the resolution. The resolution being once before the House any member could have demanded the previous question upon it. It was not for the gentleman from New York only to do so; any other member could have done the same thing.

Mr. SPRINGER. I now rise to a question of order. I make the

point of order that the gentleman from Ohio [Mr. POPPLETON] having the floor has submitted a proposition which is upon the Clerk's desk, and that we are entitled to have it read in order that we may know what it is.

The SPEAKER. It will be read, and the Chair will rule upon it afterward.

Mr. RUSK. I object to its being read if it is not in order.

Mr. WOOD, of Pennsylvania. Do not object to the reading.

The Clerk began the reading as follows:

Whereas, at a joint meeting of the two Houses, on the 28th day of February, 1877—

Mr. POPPLETON. I desire to say, as there may be some claim that I have yielded the floor to allow this resolution to be read, that I claim my right to the floor to offer a resolution.

The Clerk continued the reading, as follows:

a sealed package, addressed to the President of the Senate, purporting to contain the electoral vote of the State of Vermont, was delivered to the said President of the Senate by Mr. HEWITT, a member of this House, who then stated that he received it by express about the middle of December last, and with it a letter notifying him that a similar package had been forwarded by mail to the President of the Senate; and said HEWITT being informed by the said President that no package had been received corresponding thereto, that he, Mr. HEWITT, had previously to said joint meeting, tendered said package to said President of the Senate, who declined to receive the same, and which statement was not denied.

And whereas it also appeared by a telegram from the clerk of the district court of the United States for the district of Vermont that a duplicate of said return was deposited in that office on the 13th day of December, 1876;

And whereas objections were made pursuant to law to the certificate purporting to be the electoral vote of Vermont which had been opened by the President of the Senate in the presence of the two Houses, and said package was in terms made a part of said objection, and still remains unopened, and said objection cannot be considered until said package is opened according to law;

And whereas the said return then tendered to said President of the Senate in the presence of the two Houses was retained by him or by the Secretary of the Senate, and the said President of the Senate refused to open said sealed package in the presence of the two Houses: Therefore,

Resolved, By the House of Representatives, that the refusal of the President of the Senate, to open, in the presence of the Senate and House of Representatives, said sealed package purporting to be the electoral vote of the State of Vermont, was a violation of law and of the privileges of this House, and that until said package shall be opened pursuant to law in the presence of the two Houses of Congress, the counting of the votes cannot further proceed according to the Constitution and law now in existence for the counting of said electoral votes for President and Vice-President of the United States.

Resolved, further, That the Clerk of this House inform the Senate of the adoption of the foregoing preamble and resolution and request the Senate to meet this House in joint session, to the end that said package purporting to be a certificate of the electoral vote of Vermont be opened by the President of the Senate and that the proceedings thereafter be held according to law.

The hour of twelve o'clock having arrived, the Chair decided a new legislative day to have begun.

#### PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By the SPEAKER: Memorial of the house of representatives of the State of Missouri, reciting that Samuel J. Tilden was duly elected President of the United States, and calling upon Senators and Representatives in Congress to resist the inauguration of R. B. Hayes, to the committee on the privileges, powers, and duties of the House of Representatives in counting the electoral vote for President and Vice-President of the United States.

Also, the petition of Stephen H. Preston, William F. Hewitt, and 75 other citizens of Marshall, Michigan, of similar import, to the same committee.

Also, the petition of citizens of Darlington, Pennsylvania, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. CABELL: The petition of citizens of Carroll County, Virginia, of similar import, to the same committee.

By Mr. HOSKINS: The petition of citizens of Alden, New York, of similar import, to the same committee.

By Mr. HURLBUT: Memorial of H. J. Campbell and others, concerning the recent election in Louisiana, to the committee on the recent election in Louisiana.

By Mr. JENKS: Two petitions from citizens of Pennsylvania, for the passage of a general bill granting arrears of pension, to the Committee on Invalid Pensions.

By Mr. MILLER: The petition of citizens of New Berlin and adjoining towns in New York, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. ODELL: The petition of Henry L. Dean and others, of New Rochelle, New York, that all lawful means be used to prevent Rutherford B. Hayes ever becoming President of the United States, to the committee on the privileges, powers, and duties of the House of Representatives in counting the vote for President and Vice-President of the United States.

By Mr. PHELPS: The petition of John Morgan and 257 other citizens and ladies of Middletown, Connecticut, for the passage of a law prohibiting the sale of intoxicating liquors in the District of Columbia and the Territories except by a vote of the majority of the legal voters and of ladies over eighteen years of age, to the Committee for the District of Columbia.

By Mr. PHILLIPS, of Kansas: Joint resolution of the Legislature of Kansas, asking that aid be extended to complete the Southern Pacific Railroad, to the Committee on the Pacific Railroad.

By Mr. SINICKSON: Four petitions, one from citizens of Newark

another from citizens of Elizabeth, another from citizens of Washington, the fourth from citizens of Rahway, New Jersey, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. VAN VORHES: The petition of J. T. Ward, Joseph Dodds, and 33 other citizens of Washington County, Ohio, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. WADDELL: The petition of citizens of Wilmington, North Carolina, for the passage of the bill appropriating \$50,000 for the purpose of establishing a colony in the polar regions, to the Committee on Naval Affairs.

## IN SENATE.

TUESDAY, March 1, 1877—10 a. m.

The recess having expired, the Senate resumed its session.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives (at eleven o'clock and twenty-five minutes a. m.) by Mr. G. M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4680) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes; in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in the amendment of the Senate to the bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation, in the State of Arkansas.

### ENROLLED BILLS.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution:

A bill (S. No. 1216) to provide for the preparation and publication of a new edition of the Revised Statutes of the United States;

A bill (H. R. No. 2382) granting the right of way to the Hot Springs Railroad Company over the Hot Springs reservation in the State of Arkansas;

A bill (H. R. No. 2833) for the relief of Susan P. Vance;

A bill (H. R. No. 4301) for the relief of A. W. Plymate, of West Virginia;

A bill (H. R. No. 4149) to remove the political disabilities of Lloyd J. Beall, of Virginia;

A bill (H. R. No. 4452) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1878, and for other purposes;

A bill (H. R. No. 4657) to provide a building for the United States district and circuit courts, post-office, and internal-revenue officers at Austin, Texas; and

A joint resolution (H. R. No. 196) authorizing the President to designate and set apart a site for the colossal statue of "Liberty enlightening the world," and to provide for the permanent maintenance and preservation thereof.

Mr. DORSEY, (at twelve o'clock and forty minutes p. m.) There are a number of enrolled bills from the House of Representatives on the President's table awaiting his signature. I ask unanimous consent that they be signed and the fact announced to the Senate, so that they may go to the President of the United States for his signature.

The PRESIDENT *pro tempore*. The Senator from Arkansas asks that unanimous consent be given to the signing of several enrolled bills on the table. Is there objection?

Mr. BOUTWELL. I ask whether, in the opinion of the Chair, that would be a departure from the statute under which we are acting?

The PRESIDENT *pro tempore*. The Chair would so construe it.

Mr. BOUTWELL. Then I object.

The PRESIDENT *pro tempore*. Objection being made, the request made by the Senator from Arkansas cannot be entertained.

### PRESIDENTIAL APPROVALS.

A message from the President of the United States at one o'clock and fifteen minutes p. m., by Mr. C. C. SNIFFIN, one of his Secretaries, announced that the President had this day approved and signed the following acts:

An act (S. No. 1185) to ratify an agreement with certain bands of the Sioux Nation of Indians; and also with the northern Arapaho and Cheyenne Indians;

An act (S. No. 234) to allow a pension of \$36 per month to soldiers who have lost both an arm and a leg;

An act (S. No. 859) for the relief of certain claimants under the donation land law of Oregon, approved September 27, 1850;

An act (S. No. 1271) to authorize the printing and distribution of the eulogies delivered in Congress on announcement of the death of the late Allen T. Caperton, a Senator from the State of West Virginia; and

An act (S. No. 1270) to authorize the printing and distribution of

the memorial addresses on the life and character of the late Michael C. Kerr, Speaker of the House of Representatives.

### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, (at five o'clock and forty-five minutes p. m.,) by Mr. G. M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 4694) to remove the political disabilities of Henry B. Davidson, of California; in which the concurrence of the Senate was requested.

The message also announced that the House had passed the following bills:

A bill (S. No. 915) to remove the political disabilities of D. H. Hill, of North Carolina;

A bill (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas;

A bill (S. No. 1136) to remove the political disabilities of Wade H. Gibbes, of South Carolina;

A bill (S. No. 1203) to remove the political disabilities of M. L. Bonham, of South Carolina;

A bill (S. No. 1272) to remove the political disabilities of William Butler, of South Carolina;

A bill (S. No. 1273) to remove the political disabilities of William R. Jones, of Texas;

A bill (S. No. 1274) to remove the political disabilities of S. P. Moore, doctor of medicine, a citizen of Virginia;

A bill (S. No. 1276) to remove the political disabilities of W. L. Carrington, of Virginia;

A bill (S. No. 1277) to remove the political disabilities of Catesby ap R. Jones, of Alabama;

A bill (S. No. 1278) to remove the political disabilities of John S. Marmaduke; and

A bill (S. No. 1285) to remove the political disabilities of J. L. M. Curry, of Virginia.

The message also announced that the House had concurred in the amendments of the Senate to the following bills:

A bill (H. R. No. 3636) to remove the political disabilities of Richard S. Kinney and William R. Jones;

A bill (H. R. No. 3260) to remove the disabilities of Lawrence S. Baker, of Tarborough, North Carolina;

A bill (H. R. No. 3730) to remove the political disabilities of John D. Simms and Samuel V. Turner, of Virginia; and

A bill (H. R. No. 3791) to remove the legal and political disabilities of William A. Webb, of Virginia.

The message also announced that the House had passed a resolution for the printing of ten thousand five hundred copies of the report of the Smithsonian Institution for the year 1876; in which the concurrence of the Senate was requested.

The message further announced that the House had passed a resolution for the printing of five thousand copies of the Report of the United States Commissioner of Fish and Fisheries for the year 1873-'4 and 1874-'5; in which the concurrence of the Senate was requested.

The message also announced that the House had agreed to the resolution of the Senate for the printing of four thousand five hundred extra copies of the Report of the Commissioner on Fish and Fisheries.

### ELECTORAL VOTE OF VERMONT.

At ten o'clock and fifty minutes p. m., Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, the House of Representatives has passed the following:

*Ordered*. That the vote of Henry N. Sollace, claiming to be an elector from the State of Vermont, be not counted.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives, and returned to its Chamber at eleven o'clock and thirty minutes p. m., when the President *pro tempore* resumed the chair.

### ELECTORAL VOTE OF WISCONSIN.

The PRESIDENT *pro tempore*. The Senate having returned from the joint meeting upon an objection submitted to the certificate from the State of Wisconsin, the Secretary of the Senate will now read that objection.

The Secretary read as follows:

The undersigned, Senators and Representatives, object to the counting of the vote of Daniel L. Downs as an elector for the State of Wisconsin, on the following grounds, namely:

That the said Daniel L. Downs held the office of pension surgeon and of examining surgeon for the Pension Office by valid appointment under the laws of the United States prior to the 7th day of November, 1876, the day of the presidential election, and upon said day, and upon the 6th day of December, 1876, at the time of his assuming to cast a vote as elector for the State of Wisconsin, and that he has continually held said office from a long period prior to the said 7th day of November, 1876, until the present time. And the undersigned therefore state that said Downs, as pension surgeon and as examining surgeon for the Pension Office as aforesaid held an office of trust and profit under the United States on the day of the presidential election and on the day that he voted as an elector for the State of Wisconsin, and therefore could not be constitutionally appointed an elector for the State of Wisconsin or vote as such elector under the Constitution of the United States.

Wherefore the undersigned aver that the said Downs was not duly appointed an elector for the said State, and that his vote cannot be constitutionally counted.